LAWS AND RESOLUTIONS OF THE STATE OF MONTANA

Enacted or Adopted by the

SIXTY-FOURTH LEGISLATURE IN REGULAR SESSION

Held at Helena, the Seat of Government January 5, 2015, through April 28, 2015

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OFFICERS AND MEMBERS OF THE MONTANA SENATE

2015

50 Members

29 Republicans 21 Democrats

OFFICERS

President ..... Debby Barrett
President Pro Tempore ..... Eric Moore
Majority Leader ..... Matthew Rosendale
Majority Whips ..... Ed Buttrey, Cary Smith
Minority Leader ..... Jon Sesso
Minority Whips ..... Robyn Driscoll, Tom Facey
Secretary of the Senate ..... Marilyn Miller
Sergeant at Arms ..... Carl Spencer

MEMBERS

Name	Party	District	Preferred Mailing Address
Ankney, Duane	R	20	PO Box 2138, Colstrip MT 59323-2138
Arntzen, Elsie	R	26	2323 Azalea Ln, Billings MT 59102-2516
Barrett, Debby	R	36	18580 MT Highway 324, Dillon MT 59725-8031
Barrett, Dick	D	45	219 Agnes Ave, Missoula MT 59801-8730
Blasdel, Mark	R	4	PO Box 1493, Kalispell MT 59903-1493
Brenden, John	R	17	PO Box 970, Scobey MT 59263-0970
Brown, Dee	R	2	PO Box 444, Hungry Horse MT 59919-0444
Brown, Taylor	R	28	775 Squaw Creek Rd, Huntley MT 59037-9219
Buttrey, Edward	R	11	27 Granite Hill Ln, Great Falls MT 59405-8041
Caferro, Mary	D	41	607 N Davis St, Helena MT 59601-3737
Cohenour, Jill	D	42	2610 Colt Dr, East Helena MT 59635-3442
Connell, Pat	R	43	567 Tiffany Ln, Hamilton MT 59840-9241
Driscoll, Robyn	D	25	404 Houle Dr, Billings MT 59102-4861
Facey, Tom	D	50	418 Plymouth St, Missoula MT 59801-4133
Fielder, Jennifer	R	7	PO Box 2558, Thompson Falls MT 59873-2558
Hamlett, Bradley Maxon	D	15	PO Box 49, Cascade MT 59421-0049
Hansen, Kristin	R	14	PO Box 1957, Havre MT 59501-1957
Hinkle, Jedediah	R	32	2451 Daws Dr Apt B, Bozeman MT 59718-6982
Hoven, Brian	R	13	1501 Meadowlark Dr, Great Falls MT 59404-3325
Howard, David	R	29	PO Box 10, Park City MT 59063-0010
Jones, Llew	R	9	1102 4th Ave SW, Conrad MT 59425-1919
Kary, Doug	R	22	415 W Wicks Ln, Billings MT 59105-3457
Kaufmann, Christine	D	40	825 Breckenridge St, Helena MT 59601-4433
Keane, Jim	D	38	2131 Wall St, Butte MT 59701-5527
Keenan, Bob	R	5	PO Box 697, Bigfork MT 59911-0697
Larsen, Cliff	D	47	8925 Lavalle Creek Rd, Missoula MT 59808-9324
Malek, Sue	D	46	1400 Prairie Way, Missoula MT 59802-3420
McNally, Mary	D	24	PO Box 20584, Billings MT 59104-0584
Moe, Mary Sheehy	D	12	8 Prospect Dr, Great Falls MT 59405-4120
Moore, Frederick (Eric)	R	19	487 Signal Butte Rd, Miles City MT 59301-9205
Phillips, Mike	D	31	9 W Arnold St, Bozeman MT 59715-6127
Pomnichowski, JP	D	33	222 Westridge Dr, Bozeman MT 59715-6025
Ripley, Rick	R	10	8920 MT Highway 200, Wolf Creek MT 59648-8639
Rosendale, Matthew	R	18	1954 Highway 16, Glendive MT 59330-9218
Sales, Scott	R	35	PO Box 11163, Bozeman MT 59719-1163
Sands, Diane	D	49	4487 Nicole Ct, Missoula MT 59803-2791
Sesso, Jon	D	37	811 W Galena St, Butte MT 59701-1540
Smith, Cary	R	27	3650 Decathlon Pkwy Apt 9, Billings MT 59102-7215
Stewart-Peregoy, Sharon	D	21	PO Box 211, Crow Agency MT 59022-0211

Swandal, Nels	R	30	PO Box 147, Wilsall MT 59086-0147
Taylor, Janna	R	6	PO Box 233, Dayton MT 59914-0233
Thomas, Fred	R	44	1004 S Burnt Fork Rd, Stevensville MT 59870-6658
Tutvedt, Bruce	R	3	2335 W Valley Dr, Kalispell MT 59901-6958
Vance, Gordon	R	34	PO Box 1, Belgrade MT 59714-0001
Vincent, Chas	R	1	34 Paul Bunyan Ln, Libby MT 59923-7990
Vuckovich, Gene	D	39	1205 W 3rd St, Anaconda MT 59711-1801
Webb, Roger	R	23	1132 Ginger Ave, Billings MT 59105-2062
Whitford, Lea	D	8	221 Ed Williams Rd, Cut Bank MT 59427-9144
Windy Boy, Jonathan	D	16	PO Box 195, Box Elder MT 59521-0195
Wolken, Cynthia	D	48	PO Box 16503, Missoula MT 59808-6503

OFFICERS AND MEMBERS
OF THE MONTANA HOUSE OF REPRESENTATIVES

2015

100 Members

59 Republicans 41 Democrats

OFFICERS

Speaker ..... Austin Knudsen
Speaker Pro Tempore ..... Lee Randall
Majority Leader ..... Keith Regier
Majority Whips ..... Jerry Bennett, Alan Doane, Greg Hertz, Sarah Laszloffy
Minority Leader ..... Chuck Hunter
Minority Caucus Chair ..... Carolyn Pease-Lopez
Minority Whips ..... Bryce Bennett, Jenny Eck, Margie MacDonald
Chief Clerk of the House ..... Lindsey Grovom
Sergeant at Arms ..... Dennis Lenz

MEMBERS

Name	Party	District	Preferred Mailing Address
Ballance, Nancy	R	87	PO Box 314, Hamilton MT 59840-0314
Bennett, Bryce	D	91	PO Box 9062, Missoula MT 59807-9062
Bennett, Jerry	R	1	784 Taylor Rd, Libby MT 59923-8458
Berglee, Seth	R	58	PO Box 340, Joliet MT 59041-0340
Berry, Tom	R	40	PO Box 277, Roundup MT 59072-0277
Brodehl, Randy	R	9	16 White Bark, Kalispell MT 59901-2122
Brown, Bob	R	13	PO Box 1907, Thompson Falls MT 59873-1907
Brown, Zach	D	63	503 S Willson Ave, Bozeman MT 59715-5236
Burnett, Tom	R	67	4143 Rain Roper Dr, Bozeman MT 59715-0634
Clark, Christy	R	17	PO Box 423, Choteau MT 59422-0423
Cook, Rob	R	18	223 1st Ave SW, Conrad MT 59425-1805
Court, Virginia	D	50	18 Heatherwood Ln, Billings MT 59102-2449
Cuffe, Mike	R	2	PO Box 1685, Eureka MT 59917-1685
Curdy, Willis	D	98	11280 Kona Ranch Rd, Missoula MT 59804-9790
Custer, Geraldine	R	39	PO Box 1075, Forsyth MT 59327-1075
Doane, Alan	R	36	268 County Road 521, Bloomfield MT 59315-9500
Dudik, Kimberly	D	94	PO Box 16712, Missoula MT 59808-6712
Dunwell, Mary Ann	D	84	2520 Lookout Cir, Helena MT 59601-5615
Eck, Jenny	D	79	PO Box 1206, Helena MT 59624-1206
Ehli, Ron	R	86	PO Box 765, Hamilton MT 59840-0765
Ellis, Janet	D	81	PO Box 385, Helena MT 59624-0385
Essmann, Jeff	R	54	PO Box 80945, Billings MT 59108-0945
Fiscus, Clayton	R	43	1800 Mary St, Billings MT 59105-4804
Fitzpatrick, Steve	R	20	3203 15th Ave S, Great Falls MT 59405-5416
Flynn, Kelly	R	70	PO Box 233, Townsend MT 59644-0233
Funk, Moffie	D	82	825 8th Ave, Helena MT 59601-3716
Garner, Frank	R	7	PO Box 10176, Kalispell MT 59904-0176
Glimm, Carl	R	6	5107 Ashley Lake Rd, Kila MT 59920-9787
Greef, Edward	R	88	PO Box 1327, Florence MT 59833-1327
Hagstrom, Dave	R	52	324 S 31st St, Billings MT 59101-3942
Harris, Bill	R	29	PO Box 205, Winnett MT 59087-0205
Hayman, Denise	D	66	120 Sourdough Ridge Rd, Bozeman MT 59715-9264
Hertz, Greg	R	12	PO Box 1747, Polson MT 59860-1747
Hess, Stephanie	R	28	PO Box 28, Havre MT 59501-0028
Hill, Ellie Boldman	D	90	501 Daly Ave, Missoula MT 59801-4412
Hollandsworth, Roy	R	27	1463 Prairie Dr, Brady MT 59416-8928
Holmlund, Kenneth	R	38	1612 Tompy St, Miles City MT 59301-4431
Hunter, Chuck	D	83	717 Dearborn Ave, Helena MT 59601-2712

Jacobson, Tom	D	21	521 Riverview Dr E, Great Falls MT 59404-1634
Jones, Donald	R	46	1945 Clark Ave, Billings MT 59102-4019
Karjala, Jessica	D	48	6125 Masters Blvd, Billings MT 59106-1036
Kelker, Kathy	D	47	2438 Rimrock Rd, Billings MT 59102-0556
Kipp III, George	D	15	PO Box 191, Heart Butte MT 59448-0191
Knudsen, Austin	R	34	PO Box 624, Culbertson MT 59218-0624
Lamm, Debra	R	60	PO Box 1390, Livingston MT 59047-1390
Lang, Mike	R	33	PO Box 109, Malta MT 59538-0109
Laszloffy, Sarah	R	53	PO Box 80613, Billings MT 59108-0613
Lavin, Steve	R	8	PO Box 11241, Kalispell MT 59904-4241
Lieser, Ed	D	5	1355 Lion Mountain Dr, Whitefish MT 59937-8072
Lynch, Ryan	D	76	PO Box 934, Butte MT 59703-0934
MacDonald, Margie	D	51	4111 June Dr, Billings MT 59106-1565
Mandeville, Forrest	R	57	PO Box 337, Columbus MT 59019-0337
Manzella, Theresa	R	85	640 Gold Creek Loop, Hamilton MT 59840-9742
McCarthy, Kelly	D	49	625 Yellowstone Ave, Billings MT 59101-1624
McClafferty, Edie	D	73	1311 Stuart Ave, Butte MT 59701-5014
McConnell, Nate	D	89	PO Box 8511, Missoula MT 59807-8511
McKamey, Wendy	R	23	33 Upper Millegan Rd, Great Falls MT 59405-8427
*McNiven, Jonathan	R	56	3445 Rock Pillar Rd, Huntley MT 59037-9237
Mehlhoff, Robert	D	22	407 9th St NW, Great Falls MT 59404-2333
Meyers, G. Bruce	R	32	PO Box 3016, Box Elder MT 59521-3016
Miller, Mike	R	80	20906 MT Highway 141, Helmville MT 59843-9025
Monforton, Matthew	R	69	32 Kelly Ct, Bozeman MT 59718-7630
Moore, David (Doc)	R	92	3919 Paxson St, Missoula MT 59801-8941
Mortensen, Dale	R	44	446 Caravan Ave, Billings MT 59105-2839
Noland, Mark	R	10	PO Box 1852, Bigfork MT 59911-1852
Noonan, Pat	D	74	PO Box 90, Ramsay MT 59748-0090
Olsen, Andrea	D	100	622 Rollins St, Missoula MT 59801-3719
Olszewski, Albert	R	11	PO Box 11243, Kalispell MT 59904-1243
Osmundson, Ryan	R	30	1394 S Buffalo Canyon Rd, Buffalo MT 59418-8005
Pease-Lopez, Carolyn	D	42	5723 US Highway 87 E, Billings MT 59101-9074
Peppers, Rae	D	41	PO Box 497, Lame Deer MT 59043-0497
Perry, Zac	D	3	PO Box 268, Hungry Horse MT 59919-0268
Person, Andrew	D	96	PO Box 8452, Missoula MT 59807-8452
Pierson, Gordon	D	78	603 Washington St, Deer Lodge MT 59722-1347
Pinocci, Randall	R	19	66 Sun River Cascade Rd, Sun River MT 59483-9749
Pope, Christopher	D	65	1508 S Willson Ave, Bozeman MT 59715-5563
Price, Jean	D	24	422 15th St S, Great Falls MT 59405-2424
Randall, Lee	R	37	101 Randall Ln, Broadus MT 59317-9519
Redfield, Alan	R	59	538 Mill Creek Rd, Livingston MT 59047-8709
Regier, Keith	R	4	1078 Stillwater Rd, Kalispell MT 59901-6902
Ricci, Vince	R	55	1231 5th Ave, Laurel MT 59044-9602
**Richmond, Tom	R	56	3103 Westfield Dr, Billings MT 59106-1402
Salomon, Daniel	R	93	42470 Salomon Rd, Ronan MT 59864-9272
Schreiner, Casey	D	25	2223 6th Ave N, Great Falls MT 59401-1819
Schwaderer, Nicholas	R	14	PO Box 370, Superior MT 59872-0370
Shaw, Ray	R	71	251 Bivens Creek Rd, Sheridan MT 59749-9638
Smith, Bridget	D	31	516 Hill St, Wolf Point MT 59201-1245
Staffanson, Scott	R	35	34704 County Road 122, Sidney MT 59270-6353
Steenberg, Tom	D	99	4802 Aspen Dr, Missoula MT 59802-5218
Swanson, Kathy	D	77	308 E 6th St, Anaconda MT 59711-3016
Tropila, Mitch	D	26	PO Box 929, Great Falls MT 59403-0929
Tschida, Brad	R	97	10825 Mullan Rd, Missoula MT 59808-9479
Wagoner, Kirk	R	75	1 Jackson Creek Rd #2347, Montana City MT 59634-9714
Webber, Susan	D	16	PO Box 1011, Browning MT 59417-1011
Welborn, Jeffrey	R	72	PO Box 790, Dillon MT 59725-0790
White, Kerry	R	64	4000 Blackwood Rd, Bozeman MT 59718-7621
Williams, Kathleen	D	61	PO Box 548, Bozeman MT 59771-0548
Wilson, Nancy	D	95	332 S 1st St W Apt A, Missoula MT 59801-1802
Wittich, Art	R	68	3116 Sourdough Rd, Bozeman MT 59715-9260
Woods, Tom	D	62	1122 N Spruce Dr, Bozeman MT 59715-5949
Zolnikov, Daniel	R	45	PO Box 50403, Billings MT 59105-0403

*Resigned November 9, 2014

**Appointed to fill vacated HB 56 seat

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28 *(House Bill No. 57; Funk)* ENHANCING PROTECTIONS FROM SECURITIES FRAUD FOR THE ELDERLY OR PERSONS WITH DEVELOPMENTAL DISABILITIES; INCREASING ACCESS TO THE SECURITIES ASSISTANCE RESTITUTION FUND FOR THE ELDERLY OR PERSONS WITH DEVELOPMENTAL DISABILITIES; AMENDING SECTIONS 30-10-103, 30-10-305, 30-10-306, 30-10-1003, AND 30-10-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 86

29 *(House Bill No. 67; Smith)* REMOVING THE WALL STREET JOURNAL AS THE SOURCE FOR DETERMINING THE AVERAGE PRICE FOR A BARREL OF WEST TEXAS INTERMEDIATE CRUDE OIL; AND AMENDING SECTIONS 15-36-303, 15-36-304, AND 20-9-518, MCA. . . 99

30 *(House Bill No. 91; Clark)* STANDARDIZING THE PER DIEM PAYMENTS TO MEMBERS OF DEPARTMENT OF AGRICULTURE ADVISORY BOARDS AND COUNCILS; AMENDING SECTIONS 80-2-202, 80-8-108, 80-11-203, 80-11-305, 80-11-404, AND 90-9-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 106

31 *(House Bill No. 105; Woods)* AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO OPERATE AN ANALYTICAL LABORATORY; ALLOWING THE DEPARTMENT TO SET FEES FOR ANALYTICAL SERVICES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 108

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33 *(House Bill No. 109; Salomon)* ALLOWING THE DEPARTMENT OF AGRICULTURE TO PROVIDE SAMPLING SERVICES IN CROP-RELATED DISPUTES; PROVIDING FOR FEES; AND GRANTING RULEMAKING AUTHORITY. 110

34 *(House Bill No. 110; Holmlund)* CLARIFYING EDUCATIONAL REQUIREMENTS FOR THE BOARD OF FUNERAL SERVICE; AND AMENDING SECTION 37-19-302, MCA 111

35 *(House Bill No. 112; Regier)* EXTENDING THE SUNSET ON WIRELESS 9-1-1 FUNDING FOR LESS-POPULATED COUNTIES; AMENDING SECTION 10-4-313, MCA; AND PROVIDING AN EFFECTIVE DATE. . 111

36 *(House Bill No. 122; Randall)* REVISING PROVISIONS RELATED TO WITHHOLDING OF TAX FOR AGRICULTURAL LABOR; DEFINING "AGRICULTURAL LABOR"; AMENDING SECTION 15-30-2501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 113

37 *(House Bill No. 136; Eck)* ALLOWING ELECTRONIC MEANS AS A METHOD OF ACCEPTING A VICTIM NOTIFICATION REQUEST AND OF PROVIDING NOTIFICATION TO VICTIMS; AMENDING SECTION 46-24-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 115

38 *(House Bill No. 184; Hertz)* CLARIFYING THAT CERTIFIED PUBLIC ACCOUNTANTS ARE EXEMPT FROM THE REGULATORY REQUIREMENTS OF PRIVATE INVESTIGATORS, PRIVATE SECURITY AND FIRE ENTITIES, AND PROCESS SERVERS WHEN ENGAGED IN AN INVESTIGATION INCIDENT TO THE PRACTICE OF ACCOUNTANCY; AND AMENDING SECTION 37-60-105, MCA 115

39 *(Senate Bill No. 4; Facey)* AUTHORIZING APPOINTMENT OF SUBSTITUTE WORKERS' COMPENSATION JUDGES DURING A VACANCY; AND AMENDING SECTION 39-71-2901, MCA 116

40 *(Senate Bill No. 19; Ripley)* INCREASING THE PER CAPITA LIVESTOCK FEES ASSESSED BY LIVESTOCK AND CATTLE PROTECTIVE DISTRICTS FOR THE LIVESTOCK SPECIAL DEPUTY FUND; AMENDING SECTIONS 81-6-104, 81-6-204, AND 81-6-209, MCA; AND PROVIDING AN EFFECTIVE DATE. 118

41 *(Senate Bill No. 27; Brown)* REVISING INTERIM COMMITTEE DUTIES RELATED TO ADMINISTRATIVE RULE REVIEW, DRAFT LEGISLATION REVIEW, PROGRAM EVALUATION, AND MONITORING OF CERTAIN AGENCIES; AMENDING SECTIONS 5-5-227 AND 5-5-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 118

42 *(Senate Bill No. 35; Facey)* ELIMINATING THE CERTIFICATE OF EXISTENCE REQUIREMENTS FOR OUT-OF-STATE BUSINESSES; REQUIRING CERTAIN STATEMENTS FROM OUT-OF-STATE BUSINESSES IN LIEU OF A CERTIFICATE OF EXISTENCE; AMENDING SECTIONS 35-1-217, 35-1-311, 35-1-1028, 35-2-119, 35-2-307, 35-2-822, 35-8-108, 35-8-1003, AND 35-12-1302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 120

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44 *(Senate Bill No. 46; Pomnichowski)* ALLOWING FISHING, HUNTING, AND TRAPPING LICENSES TO BE SIGNED ELECTRONICALLY; AMENDING SECTION 87-2-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 127

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46 *(Senate Bill No. 71; Keane)* REVISING THE INSPECTION FEE FOR TWO OR MORE BOILERS; AMENDING SECTION 50-74-219, MCA; AND PROVIDING AN EFFECTIVE DATE 128

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49 *(House Bill No. 84; Bennett)* GENERALLY REVISING ELECTION LAWS; CONSOLIDATING AND STANDARDIZING CERTAIN DATES AND DEADLINES FOR ELECTION ADMINISTRATION; PROVIDING FOR EXCEPTIONS TO STANDARD PROVISIONS IF SPECIFICALLY AUTHORIZED BY LAW; REQUIRING THAT SPECIAL PURPOSE DISTRICT ELECTIONS, OTHER THAN FUNDING ELECTIONS, BE CONDUCTED ON THE SAME DAY AS SCHOOL TRUSTEE ELECTIONS; PROVIDING THAT COUNTY ELECTION ADMINISTRATORS CONDUCT ALL SPECIAL PURPOSE DISTRICT AND COMMUNITY COLLEGE DISTRICT ELECTIONS; APPLYING LATE VOTER REGISTRATION PROVISIONS TO SCHOOL ELECTIONS CONDUCTED BY SCHOOL DISTRICT CLERKS; REVISING AND CLARIFYING CERTAIN TERMS OF OFFICE PROVISIONS FOR CERTAIN ELECTED OFFICIALS; ELIMINATING ANY REQUIREMENTS FOR CANDIDATE NOMINATION PETITIONS SIGNED BY A CERTAIN NUMBER OR ELECTORS AS A PREREQUISITE TO CANDIDACY; REVISING INFORMATION TO BE INCLUDED IN A CALL FOR CERTAIN ELECTIONS; REVISING CERTAIN PROVISIONS REGARDING ELECTIONS CONDUCTED BY MAIL; REVISING CERTAIN PROVISIONS CONCERNING PUBLIC NOTICE OF ELECTIONS; REVISING DEFINITIONS; ELIMINATING REDUNDANT AND OUTDATED PROVISIONS; AMENDING SECTIONS 2-16-622, 3-1-1013, 3-6-201, 3-10-101, 3-11-101, 7-1-201, 7-1-2121, 7-1-4130, 7-2-2215, 7-2-2604, 7-2-2705, 7-2-2709, 7-2-2804, 7-2-4104, 7-2-4106, 7-2-4314, 7-2-4601, 7-2-4602, 7-2-4606, 7-2-4733, 7-2-4902, 7-2-4904, 7-3-103, 7-3-121, 7-3-122, 7-3-125, 7-3-149, 7-3-154, 7-3-155, 7-3-160, 7-3-173, 7-3-174, 7-3-175, 7-3-176, 7-3-178, 7-3-186, 7-3-187, 7-3-192, 7-3-1204, 7-3-1205, 7-3-1206, 7-3-1208, 7-3-1209, 7-3-1216, 7-3-1218, 7-3-1219, 7-3-1229, 7-3-1231, 7-3-1254, 7-3-1271, 7-3-4208, 7-3-4210, 7-3-4212, 7-3-4214, 7-3-4222, 7-3-4223, 7-3-4305, 7-3-4307, 7-3-4309, 7-3-4310, 7-3-4311, 7-3-4316, 7-3-4319, 7-3-4322, 7-3-4462, 7-5-131, 7-5-132, 7-5-4321, 7-5-4322, 7-6-1501, 7-6-1502, 7-6-1504, 7-6-1505, 7-6-1506, 7-6-1508, 7-6-1509, 7-6-1532, 7-6-1533, 7-6-1535, 7-6-1536, 7-6-1541, 7-6-1542, 7-6-1543, 7-6-1544, 7-6-1546, 7-6-1547, 7-6-1548, 7-6-1551, 7-7-2223, 7-7-2227, 7-7-2229, 7-7-2237, 7-7-2404, 7-7-2405, 7-7-2406, 7-7-4226, 7-7-4227, 7-7-4235, 7-7-4426, 7-8-4201, 7-10-101, 7-10-102, 7-10-104, 7-10-110, 7-11-1011, 7-11-1012, 7-12-4243, 7-13-2201, 7-13-2204, 7-13-2208, 7-13-2210, 7-13-2211, 7-13-2214, 7-13-2217, 7-13-2222, 7-13-2225, 7-13-2231, 7-13-2234, 7-13-2241, 7-13-2258, 7-13-2261, 7-13-2262, 7-13-2271, 7-13-2272, 7-13-2273, 7-13-2276, 7-13-2321, 7-13-2323, 7-13-2324, 7-13-2328, 7-13-2333, 7-13-2341, 7-13-2342, 7-13-2352, 7-13-4204, 7-13-4511, 7-13-4512, 7-13-4535, 7-14-210, 7-14-211, 7-14-212, 7-14-214, 7-14-1106, 7-14-1134, 7-14-1633, 7-14-2507, 7-14-4512, 7-14-4642, 7-16-2102, 7-16-2109,

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50 *(House Bill No. 94; Flynn)* ALLOWING NATURAL DISASTER MULTIPERIL INSURANCE TO BE SOLD AS SURPLUS LINES INSURANCE; AMENDING SECTIONS 33-2-301 AND 33-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 255

51 *(House Bill No. 134; Eck)* PROHIBITING A YOUTH ADJUDICATED FOR ONLY MISDEMEANOR OFFENSES FROM BEING PLACED IN A STATE PRISON; AMENDING SECTION 41-5-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 258

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53 *(Senate Bill No. 59; Driscoll)* CLARIFYING THE COURT'S ROLE IN THE ELIGIBILITY DETERMINATION PROCESS FOR ASSIGNING COUNSEL AT PUBLIC EXPENSE; AND AMENDING SECTION 47-1-111, MCA 262

54 *(Senate Bill No. 62; Brown)* REVISING THE REPORTING AND PAYMENT DATES FOR PER CAPITA LIVESTOCK FEES; AMENDING SECTIONS 15-24-903, 15-24-905, 15-24-906, 15-24-921, AND 81-7-603, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE 264

55 *(Senate Bill No. 65; Driscoll)* REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 64TH LEGISLATURE AND PREVIOUS LEGISLATURES; AND AMENDING SECTIONS 2-15-3110, 2-17-546, 7-31-202, 7-32-303, 7-33-4107, 10-1-1402, 13-13-212, 13-21-212, 13-35-502, 15-30-2604, 15-31-150, 19-20-408, 19-20-410, 20-1-213, 33-22-703, 37-47-101, 39-71-703, 39-71-1101, 41-2-103, 45-7-309, 45-9-203, 46-18-201, 46-18-245, 46-18-256, 46-23-1027, 50-2-109, 53-4-209, 61-10-121, 69-13-302, 72-5-446, 72-38-111, 72-38-132, 72-38-301, 72-38-802, 75-1-102, 77-1-103, 77-1-218, 82-2-203, AND 87-2-525, MCA . 266

56 *(Senate Bill No. 81; Facey)* REVISING MEMBERSHIP OF CERTAIN LICENSING BOARDS; INCREASING THE NUMBER OF REGISTERED NURSES AND REDUCING THE NUMBER OF LICENSED PRACTICAL NURSES ON THE BOARD OF NURSING; INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF CHIROPRACTORS AND REMOVING A LIMITATION ON MEMBERSHIP; REMOVING MANDATORY INCLUSION OF A LICENSED AUDIOLOGIST ON THE BOARD OF HEARING AID DISPENSERS AND REVISING OTHER MEMBERSHIP QUALIFICATIONS; REMOVING POLITICAL AFFILIATION REQUIREMENTS FOR THE BOARD OF REALTY REGULATION; CLARIFYING HUNTING AND FISHING OUTFITTER QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD OF OUTFITTERS; AMENDING SECTIONS 2-15-1734, 2-15-1737, 2-15-1740, 2-15-1757, AND 2-15-1773, MCA; AND PROVIDING EFFECTIVE DATES 294

57 *(Senate Bill No. 104; Arntzen)* REQUIRING ALL LICENSEES FOR THE BOARD OF MASSAGE THERAPY TO MEET SIMILAR QUALIFICATIONS FOR LICENSURE; REMOVING THE GRANDFATHER STATUS OF CERTAIN LICENSEES; AMENDING SECTION 37-33-501, MCA; AND REPEALING SECTION 37-33-503, MCA 297

58 *(Senate Bill No. 117; Tutvedt)* REVISING THE MEMBERSHIP OF THE RAIL SERVICE COMPETITION COUNCIL; AMENDING SECTION 2-15-2511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 297

59 *(Senate Bill No. 164; Hoven)* REVISING DEFINITIONS RELATED TO SKIING; AND AMENDING SECTION 23-2-702, MCA 299

60 *(House Bill No. 27; Hayman)* PROVIDING FOR AN INCREASE IN THE BASIC ENTITLEMENT, THE TOTAL PER-ANB ENTITLEMENT, THE TOTAL AMERICAN INDIAN ACHIEVEMENT GAP PAYMENT, THE TOTAL INDIAN EDUCATION FOR ALL PAYMENT, THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT, AND THE TOTAL QUALITY EDUCATOR PAYMENT; PROVIDING FOR THE CALCULATION OF THE DATA-FOR-ACHIEVEMENT PAYMENT IN 20-9-306 INSTEAD OF 20-9-325; AMENDING SECTIONS 20-9-306 AND 20-9-325, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 300

61 *(House Bill No. 38; Schreiner)* REVISING GAMBLING CONTROL LAWS; REVISING DEFINITIONS; REVISING THE AUTHORITY AND DUTIES OF GAMBLING INVESTIGATORS; REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF JUSTICE RELATED TO GAMBLING CONTROL; AUTHORIZING THE DEPARTMENT TO ESTABLISH A CALCUTTA POOL PERMIT APPLICATION; ESTABLISHING A PERMIT FEE; AMENDING LIVE CARD GAME PERMIT REQUIREMENTS; AMENDING THE DEFINITION OF "SPORTS TAB GAME"; AMENDING SECTIONS 23-5-112, 23-5-113, 23-5-115, 23-5-222, 23-5-306, AND 23-5-501, MCA; AND PROVIDING EFFECTIVE DATES. 305

62 *(House Bill No. 74; Lynch)* REVISING DATA SYSTEM SECURITY BREACH NOTIFICATION LAWS; REQUIRING THE ATTORNEY GENERAL AND INSURANCE COMMISSIONER TO BE NOTIFIED OF A DATA SYSTEM SECURITY BREACH; AND AMENDING SECTIONS 2-6-501, 2-6-504, 30-14-1704, AND 33-19-321, MCA 311

63 *(House Bill No. 103; Brown)* GENERALLY REVISING LAWS RELATED TO REGULATION BY THE STATE AUDITOR; MODIFYING DOCUMENTARY REQUIREMENTS FOR SECURITY REGISTRATION BY QUALIFICATION; CLARIFYING EMPLOYER ABILITY TO FUND EMPLOYEE INDIVIDUAL HEALTH INSURANCE POLICIES;

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65 *(House Bill No. 147; Wittich)* ADOPTING THE NURSE LICENSURE COMPACT; PROVIDING SUPPLEMENTAL PROVISIONS; AND PROVIDING RULEMAKING AUTHORITY 361

66 *(House Bill No. 157; Perry)* EXTENDING SCHOOL DISTRICT LEASING AUTHORITY; AMENDING SECTIONS 20-6-609 AND 20-6-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 367

67 *(House Bill No. 195; McConnell)* REVISING PRETRIAL DIVERSION LAWS TO ALLOW DEFERRAL OF PROSECUTION TO BE ENTERED INTO UPON NOTICE BY THE PROSECUTOR; AMENDING SECTION 46-16-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 367

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76 *(Senate Bill No. 51; Barrett)* ALLOWING THE DEPARTMENT OF REVENUE TO SHARE INFORMATION RELATED TO DEBT OFFSET OR COLLECTION WITH THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 15-30-2618, 15-31-511, AND 90-1-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 384

77 *(Senate Bill No. 63; Brown)* CLARIFYING THE LEGISLATIVE AUDIT COMMITTEE'S COST-EFFECTIVENESS PRIVATIZATION REVIEW PROCESS TO INCLUDE INFORMATION PROVIDED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTION 2-8-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 388

78 *(Senate Bill No. 64; Keane)* REVISING LAWS GOVERNING THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; REMOVING CERTAIN REFERENCES TO THE COMMISSION ACQUIRING AND PURCHASING PROPERTY; REMOVING THE REQUIREMENT THAT PROPERTIES BECOME SELF-SUPPORTING; REVISING HOW COMMISSION MEMBERS MAY BE APPOINTED; REMOVING THE REQUIREMENT THAT CERTAIN FUNDS BE DEPOSITED IN THE CULTURAL AND AESTHETIC TRUST; REMOVING LANGUAGE EXPRESSING THE INTENT OF A PREVIOUS LEGISLATURE THAT NO GENERAL FUND MONEY BE USED TO FUND OPERATIONS; REMOVING THE REQUIREMENT THAT CERTAIN SALE PROCEEDS BE PLACED IN A TRUST FUND; AND AMENDING SECTIONS 22-3-1001, 22-3-1002, 22-3-1003, AND 22-3-1004, MCA. 389

79 *(Senate Bill No. 67; Larsen)* GENERALLY REVISING LAWS RELATED TO MISSING PERSONS; AMENDING THE DEFINITION OF "MISSING CHILD" TO INCLUDE PERSONS UNDER 21 YEARS OF AGE; REQUIRING LAW ENFORCEMENT TO INFORM ALL ON-DUTY OFFICERS AND TO ENTER THE MISSING CHILD REPORT INTO THE NATIONAL CRIME INFORMATION CENTER SYSTEM WITHIN 2

HOURS OF THE REPORT; AND AMENDING SECTIONS 44-2-502 AND 44-2-505, MCA 393

80 *(Senate Bill No. 76; Vuckovich)* AUTHORIZING ADMINISTRATIVE SUSPENSION BY A LICENSING BOARD OR THE DEPARTMENT OF LABOR AND INDUSTRY OF A PROFESSIONAL OR OCCUPATIONAL LICENSE IN ROUTINE MATTERS AS AN ALTERNATIVE TO DISCIPLINARY PROCEEDINGS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-131, 37-1-141, 37-1-306, 37-1-309, 37-1-313, 37-1-403, 37-1-407, AND 37-51-204, MCA; AND PROVIDING AN EFFECTIVE DATE 394

81 *(Senate Bill No. 85; Buttrey)* PROVIDING ADDITIONAL METHODS FOR COLLECTING DEBTS OWED TO THE UNEMPLOYMENT INSURANCE FUND; AMENDING SECTIONS 39-51-1307 AND 39-51-3206, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 399

82 *(Senate Bill No. 95; Kaufmann)* REQUIRING THE DIRECTOR OF REVENUE TO APPOINT AN ADVISORY COUNCIL FOR THE PURPOSE OF COMPLYING WITH THE MULTISTATE TAX COMPACT IF LOCAL SUBDIVISIONS ARE AFFECTED BY THE COMPACT; AND AMENDING SECTION 2-15-1311, MCA 402

83 *(Senate Bill No. 108; Moore)* CLARIFYING THE CALCULATION OF THE ANNUAL PER CAPITA FEE; AMENDING SECTION 15-24-922, MCA; AND PROVIDING AN EFFECTIVE DATE. 402

84 *(Senate Bill No. 113; Sesso)* REVISING LAWS TO PERMIT LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS WITH THE BOARD OF INVESTMENTS; PROVIDING CRITERIA AND CONDITIONS FOR LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS; AMENDING SECTIONS 17-6-204 AND 20-15-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 403

85 *(Senate Bill No. 163; Buttrey)* CREATING THE PRIMARY SECTOR BUSINESS TRAINING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AMENDING SECTIONS 39-11-103 AND 39-11-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 405

86 *(Senate Bill No. 135; Facey)* EXPANDING EXEMPTIONS FROM STATE OVERTIME REQUIREMENTS FOR CERTAIN AIR CARRIER EMPLOYEES VOLUNTARILY TRADING WORK HOURS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 409

87 *(Senate Bill No. 72; Brown)* REPEALING PROHIBITIONS ON POLITICAL PARTY ENDORSEMENTS AND EXPENDITURES WITH RESPECT TO JUDICIAL CANDIDATES; CLARIFYING THAT POLITICAL PARTY CONTRIBUTION PROHIBITIONS APPLY TO JUSTICES OF THE PEACE; AND AMENDING SECTIONS 3-10-201 AND 13-35-231, MCA . 412

88 *(Senate Bill No. 139; Sands)* PROVIDING THAT THE PORTION OF JURY LISTS SELECTED FROM REGISTERED ELECTORS WILL INCLUDE ONLY REGISTERED ACTIVE ELECTORS; AMENDING SECTION 3-15-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 413

89 *(House Bill No. 19; Hill)* CLARIFYING THE AUTHORITY OF THE GOVERNOR TO CHANGE THE PRESIDING OFFICER OF THE BOARD OF PARDONS AND PAROLE; AND AMENDING SECTION 2-15-2302, MCA. 413

90 *(House Bill No. 80; Lynch)* REVISING CERTAIN LICENSING BOARD LAWS; AMENDING FINES REGARDING PROOF OF LICENSE VIOLATIONS FOR THE STATE ELECTRICAL BOARD AND THE BOARD OF PLUMBING; CLARIFYING THE JURISDICTION OF THE STATE ELECTRICAL BOARD REGARDING LOW-VOLTAGE WORK; REVISING MINIMUM QUALIFICATIONS FOR JOURNEYMAN PLUMBER LICENSURE; AMENDING SECTIONS 37-68-103, 37-68-316, 37-69-304, AND 37-69-310, MCA; AND PROVIDING AN EFFECTIVE DATE 414

91 *(House Bill No. 83; Hayman)* REPEALING REQUIREMENTS FOR VISITOR INFORMATION CENTER SIGNS HANDLED AS JOINT PROJECTS BY THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF TRANSPORTATION; REPEALING SECTION 60-2-243, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 417

92 *(House Bill No. 144; Redfield)* REQUIRING THAT GAME BIRD HUNTERS OBTAIN LANDOWNER PERMISSION TO HUNT ON PRIVATE PROPERTY; AND AMENDING SECTION 87-6-415, MCA 417

93 *(House Bill No. 98; McClafferty)* REVISING REQUIREMENTS FOR MOTOR VEHICLE TIRE TRACTION DEVICES; REMOVING THE REQUIREMENT THAT TIRE TRACTION EQUIPMENT CONFORM TO RULES ESTABLISHED BY THE DEPARTMENT OF JUSTICE; AMENDING SECTIONS 61-9-406 AND 61-9-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 418

94 *(House Bill No. 161; Ricci)* REVISING THE REQUIREMENTS FOR DETERMINATION OF CAUSE RESULTING FROM INVESTIGATION INTO THE CAUSE AND CIRCUMSTANCES OF A FIRE; AND AMENDING SECTION 50-63-201, MCA 420

95 *(House Bill No. 260; Lynch)* REVISING LAWS RELATING TO PAYMENT OF PUBLICATION AND NOTICE OF A PETITION TO CHANGE IRRIGATION DISTRICT BOUNDARIES; AMENDING SECTION 85-7-1805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 420

96 *(House Bill No. 43; MacDonald)* PROVIDING THAT THE GOVERNOR HAS THE FINAL AUTHORITY WITH RESPECT TO CLEMENCY AND MAY DETERMINE WHETHER A CLEMENCY HEARING TAKES PLACE AND WHETHER CLEMENCY IS GRANTED IF THE BOARD OF PARDONS AND PAROLE DENIES AN APPLICANT A HEARING OR DENIES CLEMENCY; PROHIBITING CLEMENCY RECOMMENDATIONS AND DECISIONS IF THE APPLICANT IS RELATED OR CONNECTED TO THE GOVERNOR OR WORKS OR HAS WORKED IN THE OFFICE OF THE GOVERNOR SINCE THE GOVERNOR TOOK OFFICE; AMENDING SECTIONS 46-23-103, 46-23-104, 46-23-301, 46-23-302, AND 46-23-307, MCA; AND PROVIDING AN APPLICABILITY DATE 421

97 *(House Bill No. 50; Steenberg)* CLARIFYING PENALTY PROVISIONS FOR LIQUOR LICENSING BY ADDING NEWER LIQUOR LICENSE TYPES TO THE EXISTING PENALTY PROVISIONS; AMENDING SECTION 16-4-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 424

98 *(House Bill No. 53; Person)* PROVIDING AN EXCEPTION FOR MEMBERS OF THE MILITARY AND CERTAIN FAMILY MEMBERS TO THE PROHIBITION ON PROPERTY OR CASUALTY INSURERS PROVIDING DISCOUNTS OR REBATES; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 425

99 *(House Bill No. 126; Peppers)* PROVIDING COMPENSATION TO BURIAL PRESERVATION BOARD MEMBERS WHEN PERFORMING BOARD ACTIVITIES; AMENDING SECTIONS 22-3-804 AND 22-3-811, MCA; AND PROVIDING AN EFFECTIVE DATE. 427

100 *(House Bill No. 133; MacDonald)* AUTHORIZING THE PUBLIC DEFENDER COMMISSION TO AWARD FIXED FEE CONTRACTS IN CERTAIN CASES; AND AMENDING SECTION 47-1-216, MCA. 429

101 *(House Bill No. 187; Steenberg)* CLARIFYING LAWS PERTAINING TO THE ASSIGNMENT OF ROAD AND STREET ADDRESSES; SPECIFYING THAT COUNTIES MAY DESIGNATE STREET NAMES AND ADDRESSES IN UNINCORPORATED AREAS; AMENDING SECTION 7-14-2101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 430

102 *(House Bill No. 265; Staffanson)* ALLOWING USE OF ALFALFA SEED ASSESSMENTS, GRANTS, AND GIFTS FOR THE ALFALFA LEAF-CUTTING BEE PROGRAM; AMENDING SECTIONS 80-6-1109, 80-6-1112, 80-11-304, AND 80-11-310, MCA; AND PROVIDING AN EFFECTIVE DATE 432

103 *(House Bill No. 466; Miller)* REVISING RESTITUTION LAWS RELATED TO GOVERNMENTAL ENTITIES; REVISING THE DEFINITION OF "VICTIM" TO AUTHORIZE A GOVERNMENTAL ENTITY TO RECOVER COSTS OR LOSSES INCURRED AS A RESULT OF EXTRADITING AN OFFENDER FROM AN OUT-OF-STATE JURISDICTION TO MONTANA; AMENDING SECTION 46-18-243, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 434

104 *(House Bill No. 61; Lang)* GENERALLY REVISING RAILROAD LAWS; UPDATING RAILROAD LAWS TO COMPLY WITH FEDERAL PREEMPTION OF STATE REGULATION OF RAILROADS; ELIMINATING CERTAIN PUBLIC SERVICE COMMISSION AUTHORITY OVER FREIGHT AND PASSENGER RAIL SERVICE; ELIMINATING CERTAIN RAILROAD REQUIREMENTS RELATED TO THE TRANSPORTATION OF PERSONS, PROPERTY, OR BOTH; ELIMINATING CERTAIN REQUIREMENTS RELATED TO RAILROAD EQUIPMENT; ELIMINATING COMMISSION AUTHORITY OVER RAILROAD RATES; ELIMINATING RAILROAD CORPORATION REQUIREMENTS; ELIMINATING REQUIREMENTS RELATED TO LOADING PLATFORMS AND SPURS; ELIMINATING CERTAIN RAILROAD EMPLOYEE PROTECTIONS RELATED TO RAILROAD CLOSURES; UPDATING FEDERAL REFERENCES TO RAILROAD REGULATIONS; AMENDING SECTIONS 10-3-1309, 15-6-227, 25-2-122, 69-12-209, 69-14-102, 69-14-111, 69-14-252, AND 69-14-1102, MCA; REPEALING SECTIONS 69-14-101, 69-14-112, 69-14-113, 69-14-114, 69-14-115, 69-14-116, 69-14-117, 69-14-118, 69-14-120, 69-14-131, 69-14-132, 69-14-133, 69-14-134, 69-14-135, 69-14-137, 69-14-201, 69-14-202, 69-14-203, 69-14-204, 69-14-205, 69-14-206, 69-14-207, 69-14-208, 69-14-209, 69-14-210, 69-14-211, 69-14-212, 69-14-213, 69-14-214, 69-14-215, 69-14-216, 69-14-231, 69-14-232, 69-14-233, 69-14-234, 69-14-235, 69-14-236, 69-14-237, 69-14-238, 69-14-321, 69-14-322, 69-14-401, 69-14-402, 69-14-501, 69-14-502, 69-14-503, 69-14-504, 69-14-505, 69-14-506, 69-14-507, 69-14-508, 69-14-509, 69-14-510, 69-14-511, 69-14-512, 69-14-513, 69-14-514, 69-14-515, 69-14-531, 69-14-532, 69-14-533, 69-14-534, 69-14-535, 69-14-536, 69-14-537, 69-14-538, 69-14-539, 69-14-551, 69-14-552, 69-14-553, 69-14-554, 69-14-555, 69-14-556, 69-14-557, 69-14-558, 69-14-559, 69-14-560, 69-14-561, 69-14-562, 69-14-563, 69-14-801, 69-14-803,

69-14-804, 69-14-805, 69-14-811, 69-14-812, 69-14-813, 69-14-814, AND 69-14-1001, MCA 435

105 *(House Bill No. 212; Wagoner)* CLARIFYING THE TYPES OF FISH AND GAME HARVEST PROTECTED UNDER THE MONTANA CONSTITUTION; PROVIDING LEGISLATIVE INTENT; REVISING DEFINITIONS; AND AMENDING SECTIONS 87-2-101 AND 87-6-101, MCA. 441

106 *(House Bill No. 296; Noonan)* REVISING LAWS RELATED TO COORDINATION OF PUBLIC SAFETY COMMUNICATIONS; CREATING A MUTUAL AID FREQUENCY PROGRAM FOR LAND MOBILE RADIO; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP A MANUAL CONCERNING MUTUAL AID FREQUENCIES FOR LAND MOBILE RADIO; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO COORDINATE CERTAIN PUBLIC SAFETY COMMUNICATIONS; AMENDING SECTIONS 2-17-506, 2-17-512, AND 2-17-543, MCA; AND REPEALING SECTIONS 2-17-541 AND 2-17-542, MCA 445

107 *(Senate Bill No. 49; Keane)* EXPANDING WHERE A PETROLEUM MIXING ZONE MAY BE USED; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-11-307 AND 75-11-508, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 448

108 *(Senate Bill No. 56; Hamlett)* REVISING NOTICE REQUIREMENTS FOR USE OF NAVIGABLE RIVERBEDS; EXTENDING THE AUTHORIZATION OF USE FORM FILING DEADLINE; SPECIFYING CERTAIN NOTICE DATES; AMENDING SECTIONS 77-1-1112 AND 77-1-1114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 451

109 *(Senate Bill No. 111; Ankney)* CLARIFYING THAT AN OWNER OR OPERATOR OF A WIND GENERATION FACILITY IS SUBJECT TO CERTAIN IMPACT FEES EACH YEAR FOR THE FIRST 3 YEARS AFTER CONSTRUCTION OF THE FACILITY; AMENDING SECTION 15-24-3004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 453

110 *(House Bill No. 88; Laszloffy)* GENERALLY REVISING LAWS REGARDING SEX OFFENDER REGISTRATION; REQUIRING THE OFFENDER TO PROVIDE E-MAIL ADDRESSES AND SOCIAL MEDIA SCREEN NAMES WHEN REGISTERING; REQUIRING OFFENDERS CONVICTED IN OTHER JURISDICTIONS THAT DO NOT DO A RISK LEVEL ASSESSMENT TO UNDERGO A PSYCHOSEXUAL EVALUATION; AND AMENDING SECTIONS 46-18-111, 46-18-222, 46-23-502, 46-23-504, AND 46-23-509, MCA 454

111 *(House Bill No. 129; Hill)* PROVIDING THAT A PARENT WHO IS SUBJECT TO A PARENTING PLAN AND WHO INTENDS TO CHANGE RESIDENCE IS RESPONSIBLE FOR FILING THE MOTION TO AMEND THE PARENTING PLAN IF THE PARENTS CANNOT AGREE TO A CHANGE IN THE RESIDENTIAL SCHEDULE; AND AMENDING SECTION 40-4-217, MCA 461

112 *(House Bill No. 165; Regier)* REVISING GRANDPARENT-GRANDCHILD CONTACT LAWS TO ALLOW FOR THE APPOINTMENT OF A GUARDIAN AD LITEM; AND AMENDING SECTION 40-9-102, MCA . 462

113 *(House Bill No. 186; Pease-Lopez)* REVISING LAWS RELATED TO PROTECTING VICTIMS OF SEXUAL OFFENSES; REQUIRING A SENTENCING JUDGE AND THE STATE BOARD OF PARDONS AND PAROLE TO ORDER AN OFFENDER TO REFRAIN FROM

CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REQUEST A SENTENCING JUDGE TO ADD A CONDITION OF PROBATION THAT ORDERS THE OFFENDER TO REFRAIN FROM CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REVISING VICTIM NOTIFICATION REQUIREMENTS TO INFORM A VICTIM OF A SEXUAL OFFENSE OF THE VICTIM'S RIGHT TO REQUEST THAT AN OFFENDER BE ORDERED TO REFRAIN FROM CONTACTING THE VICTIM; AND AMENDING SECTIONS 46-18-255, 46-23-215, 46-23-1011, 46-24-203, AND 46-24-212, MCA 463

114 *(House Bill No. 206; Lang)* REMOVING THE REQUIREMENT THAT THE GRASS CONSERVATION COMMISSION MEET IN HELENA; AMENDING SECTION 76-16-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 467

115 *(House Bill No. 221; MacDonald)* ALLOWING CERTAIN INJURED LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS TO FISH WITH A WILDLIFE CONSERVATION LICENSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 468

116 *(Senate Bill No. 21; Cohenour)* PROVIDING FOR AUTOMATIC FORFEITURE OF HUNTING, FISHING, AND TRAPPING LICENSES AND PRIVILEGES FOR UNLAWFUL PROCUREMENT, POSSESSION, USE, OR TRANSFER OF REPLACEMENT LICENSES, PERMITS, OR TAGS; AND AMENDING SECTIONS 87-6-302 AND 87-6-304, MCA. . . 468

117 *(Senate Bill No. 53; Barrett)* CLARIFYING THE DUTIES OF A CREDIT UNION'S BOARD OF DIRECTORS; REQUIRING DEVELOPMENT OF CERTAIN POLICIES RELATING TO CREDIT UNION OPERATIONS AND FUNCTIONS; PROVIDING DIRECTOR DUTIES AND MINIMUM COMPETENCIES; CLASSIFYING DIRECTORS' DUTIES AS GENERAL, NONDELEGABLE, AND DELEGABLE; PROVIDING RULEMAKING AUTHORITY; AND REPEALING SECTION 32-3-412, MCA 470

118 *(Senate Bill No. 80; Brown)* ELIMINATING CERTAIN AGENCY REPORTING REQUIREMENTS TO THE LEGISLATIVE AUDIT COMMITTEE; AMENDING SECTIONS 17-7-160, 17-7-161, AND 17-7-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 472

119 *(Senate Bill No. 96; Keane)* EXPANDING THE USES OF THE ORPHAN SHARE ACCOUNT TO PAY CERTAIN REMEDIAL ACTION COSTS INCURRED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REQUIRING THE DEPARTMENT TO REPORT USE OF THE ACCOUNT TO THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTIONS 75-10-711 AND 75-10-743, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 474

120 *(Senate Bill No. 110; Buttrey)* PROVIDING FOR TEMPORARY REGISTRATION PERMITS FOR CERTAIN VEHICLES USED FOR RECREATIONAL PURPOSES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-1-101 AND 61-3-224, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 479

121 *(Senate Bill No. 119; Kary)* CLARIFYING ELIGIBLE VOTERS IN CERTAIN ELECTIONS; CLARIFYING THAT CERTAIN OFFICERS OF A COMPANY MAY PETITION, PROTEST, OR VOTE IN CERTAIN CIRCUMSTANCES ON BEHALF OF THE PROPERTY OWNED BY THE COMPANY; AMENDING SECTION 7-1-4134, MCA; AND REPEALING SECTION 7-13-2254, MCA 492

122 *(Senate Bill No. 82; Hamlett)* DELEGATING WATER-RELATED DUTIES FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE; TRANSFERRING ADMINISTRATIVE RULE REVIEW, DRAFT LEGISLATION REVIEW, PROGRAM EVALUATION, AND MONITORING FUNCTIONS FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE FOR ISSUES WHERE THE PRIMARY CONCERN IS THE QUALITY OR QUANTITY OF WATER; TRANSFERRING VARIOUS REPORTING REQUIREMENTS FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE; AMENDING SECTIONS 5-5-202, 5-5-231, 75-1-208, 75-1-324, 75-5-313, 75-5-703, 85-1-203, 85-1-621, 85-2-105, 85-2-281, 85-2-350, AND 85-2-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 493

123 *(House Bill No. 90; Olsen)* REVISING WORKERS' COMPENSATION LAWS TO REQUIRE NOTICE TO CLAIMANTS OF CLAIMS EXAMINER CHANGES, UPDATE AND SIMPLIFY FEE SCHEDULE INFORMATION, PERMIT PAID TIME OFF TO BE USED FOR A WAITING PERIOD, AND MAKE ASSESSMENT PERIODS CURRENT FOR CERTAIN FUNDS; AMENDING SECTIONS 39-71-107, 39-71-704, 39-71-736, AND 39-71-915, MCA; AND PROVIDING AN EFFECTIVE DATE 506

124 *(House Bill No. 158; MacDonald)* GENERALLY REVISING SCHOOL IMMUNIZATION LAWS; ADDING VARICELLA TO THE LIST OF REQUIRED IMMUNIZATIONS; REVISING REQUIREMENTS RELATED TO THE PERTUSSIS VACCINATION; AND AMENDING SECTIONS 20-5-403 AND 20-5-404, MCA 514

125 *(House Bill No. 225; Ricci)* REVISING FUNERAL TRUST BANKING PROVISIONS; EXTENDING THE TIME PERIOD WITHIN WHICH MONEY MUST BE DEPOSITED; REMOVING A REQUIREMENT THAT A DEPOSITORY ENTITY HAVE ITS PRINCIPAL PLACE OF BUSINESS IN THIS STATE; AND AMENDING SECTION 37-19-828, MCA 515

126 *(House Bill No. 246; Perry)* REQUIRING THAT CERTAIN FEES COLLECTED FOR OVERSIZE OR OVERWEIGHT LOAD PERMITS BE FORWARDED TO THE DEPARTMENT OF TRANSPORTATION FOR DEPOSIT IN THE HIGHWAY NONRESTRICTED ACCOUNT; AMENDING SECTION 61-10-126, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 516

127 *(House Bill No. 354; Brodehl)* CREATING A LOSS MITIGATION PROGRAM AND PROVIDING CONDITIONS FOR ITS USE; REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO APPROVE ANY DISTRIBUTION OVER $30,000 PER REQUEST TO A SINGLE AGENCY; AND PROVIDING AN EFFECTIVE DATE 516

128 *(House Bill No. 387; McConnell)* EXTENDING THE TIME PERIOD WITHIN WHICH A TEMPORARY BUS ROUTE CHANGE MUST BE CONFIRMED BY THE COUNTY TRANSPORTATION COMMITTEE; AMENDING SECTION 20-10-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 517

129 *(House Bill No. 393; Richmond)* ALLOWING THE BOARD OF OIL AND GAS CONSERVATION TO CERTIFY THE AMOUNT OF CARBON DIOXIDE STORED INCIDENTALLY THROUGH AN OIL OR GAS ENHANCED RECOVERY PROJECT. 518

130 *(Senate Bill No. 22; Cohenour)* GENERALLY REVISING BEHAVIORAL HEALTH OCCUPATION LAWS; REVISING LAWS CONCERNING SOCIAL WORK, PROFESSIONAL COUNSELING, AND MARRIAGE AND FAMILY THERAPY; RENAMING THE BOARD OF SOCIAL WORK

EXAMINERS AND PROFESSIONAL COUNSELORS TO THE BOARD OF BEHAVIORAL HEALTH; PROVIDING FOR REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS SOCIAL WORKERS, PROFESSIONAL COUNSELORS, OR MARRIAGE AND FAMILY THERAPISTS; REQUIRING BACKGROUND CHECKS FOR APPLICANTS FOR MARRIAGE AND FAMILY THERAPY LICENSURE; AND AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-22-305, 37-23-102, 37-23-201, 37-37-102, AND 37-37-201, MCA 519

131 *(Senate Bill No. 97; Vincent)* REVISING THE PROCESS TO MODIFY CLASSIFICATION OF STATE WATER BODIES; REMOVING RESTRICTIONS ON THE ADOPTION AND REVISION OF CLASSIFICATIONS; REMOVING THE EXCEPTION FOR TEMPORARY CLASSIFICATIONS; AND AMENDING SECTION 75-5-302, MCA . . . 527

132 *(Senate Bill No. 105; Arntzen)* GENERALLY REVISING THE ADMINISTRATION OF UNEMPLOYMENT INSURANCE BY THE DEPARTMENT OF LABOR AND INDUSTRY; CLARIFYING EXCLUSIONS FROM THE DEFINITION OF "EMPLOYMENT"; CLARIFYING WHEN CERTAIN WAGE ADJUSTMENTS CANNOT BE MADE; SPECIFYING THE GROUNDS FOR EMPLOYER APPEALS OF CLASSIFICATION AND CONTRIBUTION RATES; CLARIFYING EXPERIENCE RATING FOR CERTAIN EMPLOYERS; REVISING NOTICE PROCEDURES; AMENDING SECTIONS 2-15-1704, 15-31-150, 39-51-201, 39-51-204, 39-51-1110, 39-51-1206, 39-51-1212, 39-51-1219, 39-51-2402, 39-51-2403, 39-51-2404, AND 39-51-2410, MCA; AND PROVIDING AN EFFECTIVE DATE. 528

133 *(Senate Bill No. 124; Brown)* GENERALLY REVISING PUBLIC PARTICIPATION LAWS; REQUIRING THE BOARD OF INVESTMENTS, THE PUBLIC EMPLOYEES' RETIREMENT BOARD, THE TEACHERS' RETIREMENT BOARD, THE BOARD OF PUBLIC EDUCATION, AND THE BOARD OF REGENTS OF HIGHER EDUCATION TO RECORD THEIR PUBLIC MEETINGS IN AUDIO OR VIDEO FORMATS; REQUIRING PUBLICATION OF THE AUDIO OR VIDEO RECORDINGS ON THE INTERNET OR VIA BROADCAST TELEVISION WITHIN 1 BUSINESS DAY; AND PROVIDING AN EFFECTIVE DATE 544

134 *(Senate Bill No. 131; Kary)* REVISING LAWS REGARDING CONCEALED WEAPONS PERMIT RENEWALS BY PROVIDING THAT FINGERPRINTING DOES NOT HAVE TO BE REPEATED WHEN PERMITS ARE RENEWED AND ESTABLISHING A TIME PERIOD FOR THE SHERIFF TO DETERMINE WHETHER A RENEWAL PERMIT WILL BE GRANTED; AND AMENDING SECTIONS 45-8-322 AND 45-8-323, MCA 545

135 *(Senate Bill No. 142; Smith)* AUTHORIZING ACCESS TO AND THE USE OF EXPERIMENTAL TREATMENTS FOR A TERMINAL ILLNESS; ESTABLISHING CONDITIONS FOR THE USE OF EXPERIMENTAL TREATMENTS; PROHIBITING SANCTIONS OF HEALTH CARE PROVIDERS; CLARIFYING THE DUTIES OF HEALTH INSURERS REGARDING EXPERIMENTAL TREATMENTS; PROHIBITING CERTAIN ACTIONS BY STATE OFFICIALS; PROVIDING IMMUNITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 548

136 *(Senate Bill No. 152; Smith)* EXTENDING LAWS, DEFINITIONS, RULEMAKING AUTHORITY, AND OTHER PROVISIONS RELATED TO OUTFITTER'S ASSISTANTS; AMENDING SECTION 11, CHAPTER 241, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 551

137 *(House Bill No. 12; Hill)* PROVIDING FOR A DECREE OF DISSOLUTION WITHOUT A HEARING WHEN THE DISSOLUTION IS UNCONTESTED; AMENDING SECTION 40-4-108, MCA; AND PROVIDING AN APPLICABILITY DATE 551

138 *(House Bill No. 54; Person)* REPLACING THE TITLE USED TO IDENTIFY THE UNITED STATES OFFICIAL RESPONSIBLE FOR CERTAIN ACTIONS UNDER THE SOCIAL SECURITY ACT; PROVIDING A DEFINITION OF "COMMISSIONER OF SOCIAL SECURITY"; AND AMENDING SECTIONS 19-1-102, 19-1-304, 19-1-401, 19-1-402, AND 19-1-823, MCA 553

139 *(House Bill No. 95; McCarthy)* GENERALLY REVISING THE PUBLIC ADJUSTER LAWS; CLARIFYING THAT LICENSURE LAWS APPLY TO PUBLIC ADJUSTERS; OUTLINING CONTRACT REQUIREMENTS FOR PUBLIC ADJUSTERS; CREATING STANDARDS OF CONDUCT FOR PUBLIC ADJUSTERS; APPLYING CONTINUING EDUCATION REQUIREMENTS TO PUBLIC ADJUSTERS; PROVIDING PENALTIES; AMENDING SECTIONS 33-1-402, 33-2-708, 33-17-102, 33-17-301, 33-17-1001, 33-17-1002, 33-17-1004, 33-17-1202, 33-17-1203, AND 33-17-1205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 555

140 *(House Bill No. 124; McKamey)* REVISING RETIREMENT PLAN LAWS TO ENSURE FEDERAL TAX QUALIFICATION; REVISING COMMINGLED AND GROUP TRUST PROVISIONS TO COMPLY WITH FEDERAL LAW; REVISING THE MORTALITY TABLES USED TO DETERMINE COMPLIANCE WITH FEDERAL LAW; REVISING REFERENCES TO ELIGIBILITY FOR MILITARY SERVICE TO COMPLY WITH FEDERAL LAW; REVISING THE CATCH-UP AGE FOR PUBLIC SAFETY EMPLOYEES PARTICIPATING IN A DEFERRED COMPENSATION PLAN TO COMPLY WITH NORMAL RETIREMENT AGE PROVISIONS; REVISING THE DEFINITION OF DEFERRED COMPENSATION PLAN PARTICIPANT TO INCLUDE ANYONE ENROLLED IN A DEFERRED COMPENSATION PLAN, WHETHER STILL EMPLOYED OR NOT; AMENDING SECTIONS 19-2-504, 19-2-1001, 19-2-1014, 19-3-2102, 19-50-101, AND 19-50-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 565

141 *(House Bill No. 132; Garner)* ALLOWING THE REALLOCATION OF CERTAIN UNSPENT SPECIAL REVENUE FUNDS TO COUNTIES THAT HAVE AN ESTABLISHED DRINKING AND DRIVING PREVENTION PROGRAM ON AN EQUAL BASIS; AMENDING SECTION 61-2-108, MCA; AND PROVIDING AN EFFECTIVE DATE. . 573

142 *(House Bill No. 162; Schwaderer)* REVISING LAWS RELATED TO THE MONTANA DIGITAL ACADEMY; PROHIBITING A SCHOOL DISTRICT FROM CHARGING A FEE TO A STUDENT WHO ENROLLS IN A MONTANA DIGITAL ACADEMY CLASS THAT THE DISTRICT REQUIRES FOR GRADUATION; PROVIDING FUNDING FOR THE ACADEMY THROUGH FEES FOR COURSES PAID BY SCHOOL DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 20-7-1201, MCA; AND PROVIDING AN EFFECTIVE DATE . 574

143 *(House Bill No. 233; Tropila)* GENERALLY REVISING THE JUVENILE DELINQUENCY INTERVENTION ACT; ALLOCATING PARENTAL CONTRIBUTIONS MADE BY A PARENT OR GUARDIAN OF A YOUTH UNDER THE JURISDICTION OF THE YOUTH COURT TO THE OFFICE OF COURT ADMINISTRATOR; AUTHORIZING THE OFFICE OF COURT ADMINISTRATOR TO ADMINISTER JUVENILE PLACEMENT FUNDS APPROPRIATED TO THE JUDICIAL BRANCH; REQUIRING

THE COST CONTAINMENT REVIEW PANEL TO SERVE IN AN ADVISORY CAPACITY TO THE OFFICE OF COURT ADMINISTRATOR; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO ESTABLISH AND ADMINISTER A COST CONTAINMENT POOL; MAKING DISCRETIONARY THE OFFICE OF COURT ADMINISTRATOR'S EVALUATION OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; PROVIDING FUNDING FOR THE EVALUATION FROM THE COST CONTAINMENT POOL; INCREASING THE FUNDING AVAILABLE FOR THE EVALUATION; ELIMINATING THE REQUIREMENT THAT A YOUTH COURT SUBMIT QUARTERLY REPORTS DOCUMENTING THE USE OF DIVERSION AND PREVENTION PROGRAMS AND PLACEMENT SERVICES; EXPANDING THE PURPOSES FOR WHICH A JUDICIAL DISTRICT MAY USE ITS ALLOCATION FROM THE YOUTH COURT INTERVENTION ACCOUNT; REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTIONS; REVISING THE SCOPE OF JUDICIAL BRANCH POLICIES AND PROCEDURES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-130, 41-5-131, 41-5-132, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-2003, 41-5-2004, 41-5-2005, 41-5-2006, 41-5-2011, 41-5-2012, AND 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE 575

144 *(Senate Bill No. 60; Driscoll)* REVISING INDECENT EXPOSURE LAWS; CREATING THE OFFENSE OF INDECENT EXPOSURE TO A MINOR; PROVIDING PENALTIES; REVISING SEXUAL OFFENDER REGISTRY PROVISIONS RELATED TO THE OFFENSE OF INDECENT EXPOSURE; AND AMENDING SECTIONS 45-5-504 AND 46-23-502, MCA. 594

145 *(Senate Bill No. 94; Buttrey)* REVISING DEFINITIONS AND TERMINOLOGY CONCERNING THE PROCUREMENT OF OFFICE SUPPLIES FOR STATE AGENCIES; AMENDING SECTIONS 18-4-301 AND 18-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 596

146 *(Senate Bill No. 184; Cohenour)* REVISING REQUIREMENTS REGARDING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; ALLOWING A MOTOR VEHICLE OPERATOR TO DISPLAY AN ELECTRONIC DOCUMENT SHOWING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; PROVIDING THAT A RESPONSE FROM THE ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM SUPERSEDES AN ELECTRONIC DOCUMENT SHOWING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; AND AMENDING SECTIONS 61-6-302 AND 61-6-309, MCA. 598

147 *(Senate Bill No. 196; Caferro)* AUTHORIZING PRIVATE EMPLOYERS TO ADOPT HIRING PREFERENCES FOR VETERANS; AND PROVIDING THAT THE HIRING PREFERENCE MAY NOT BE INTERPRETED TO CONFLICT WITH STATE AND LOCAL EQUAL OPPORTUNITY LAWS 600

148 *(Senate Bill No. 332; Buttrey)* ESTABLISHING THE JOSEPH J. DUNN MEMORIAL HIGHWAY IN CASCADE COUNTY, MONTANA, ON INTERSTATE 15 BETWEEN GREAT FALLS AND ULM, ADJACENT TO THE OFFICE OF THE CASCADE COUNTY SHERIFF'S DEPARTMENT; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE LOCATION ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 600

149 *(House Bill No. 279; Essmann)* REVISING THE REQUIREMENTS FOR TAGGING GAME ANIMALS AND GAME BIRDS; DEFINING "SITE OF

THE KILL"; AMENDING SECTIONS 87-6-101, 87-6-404, 87-6-411, AND 87-6-412, MCA; AND PROVIDING AN EFFECTIVE DATE. 601

150 *(House Bill No. 355; Doane)* ALLOWING A HORSE TO BE SURRENDERED TO THE DEPARTMENT OF LIVESTOCK AT A SITE MUTUALLY AGREED UPON BY THE HORSE'S OWNER AND THE DEPARTMENT; AND AMENDING SECTION 81-10-102, MCA 606

151 *(House Bill No. 390; Lang)* REVISING LAWS RELATED TO COMMODITY ADVISORY COMMITTEES; CLARIFYING THE PROCESS FOR CREATION OF A COMMODITY ADVISORY COMMITTEE AND ADOPTION OF RESEARCH AND MARKET DEVELOPMENT PROGRAMS; ELIMINATING THE MONTANA CORN CROP ADVISORY COMMITTEE; AMENDING SECTIONS 80-11-510 AND 80-11-512, MCA; REPEALING ARM 4.6.501, 4.6.502, 4.6.503, AND 4.6.504; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 607

152 *(House Bill No. 412; Zolnikov)* PROVIDING THAT A PERSON UNDER 21 YEARS OF AGE MAY NOT BE CHARGED OR PROSECUTED FOR CERTAIN CRIMINAL OFFENSES IF THE PERSON SEEKS MEDICAL TREATMENT FOR THE PERSON OR ANOTHER PERSON IN CERTAIN CIRCUMSTANCES FOR CONSUMING INTOXICATING SUBSTANCES OR IF EVIDENCE FOR THE CHARGE OR PROSECUTION WAS OBTAINED AS A RESULT OF THE PERSON'S SEEKING OR RECEIVING MEDICAL TREATMENT FOR CONSUMING INTOXICATING SUBSTANCES; PROVIDING DEFINITIONS; AND AMENDING SECTION 45-5-624, MCA. 609

153 *(House Bill No. 414; Lang)* REMOVING THE REQUIREMENT THAT A LICENSE PLATE BE ISSUED UPON REGISTRATION OF AN OUT-OF-STATE VEHICLE USED IN GAINFUL OCCUPATION IN MONTANA; AMENDING SECTION 61-3-701, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 613

154 *(Senate Bill No. 77; Barrett)* REVISING LICENSURE AND OTHER REGULATIONS BY THE BOARD OF MEDICAL EXAMINERS FOR PHYSICIANS AND PHYSICIAN ASSISTANTS; CREATING A RESIDENT PHYSICIAN LICENSE; REPEALING SPECIALIZED, TELEMEDICINE, AND TEMPORARY PHYSICIAN LICENSES; PROVIDING THE BOARD WITH RULEMAKING AUTHORITY FOR TELEMEDICINE GUIDELINES AND SHORT-TERM LICENSES; REVISING AND UPDATING ACCREDITATION ENTITIES; AMENDING SECTIONS 27-6-103, 37-3-102, 37-3-103, 37-3-201, 37-3-203, 37-3-204, 37-3-211, 37-3-301, 37-3-303, 37-3-305, 37-3-307, 37-3-308, 37-3-312, 37-3-321, 37-3-323, 37-3-403, AND 37-20-402, MCA; REPEALING SECTIONS 37-3-304, 37-3-306, 37-3-311, 37-3-315, 37-3-327, 37-3-328, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-345, 37-3-347, 37-3-348, 37-3-349, AND 37-6-304, MCA; AND PROVIDING AN EFFECTIVE DATE 614

155 *(Senate Bill No. 88; Brenden)* ESTABLISHING CONSERVATION DISTRICT PROCUREMENT LAWS; PROVIDING FOR COMPETITIVE BIDDING AND EXEMPTIONS; LIMITING TERMS OF CONTRACTS; AND PROVIDING AN EFFECTIVE DATE. 625

156 *(Senate Bill No. 89; Brenden)* REQUIRING SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES TO FILE BUSINESS DISCLOSURE STATEMENTS; AND AMENDING SECTION 2-2-106, MCA 627

157 *(House Bill No. 87; McClafferty)* REVISING THE CALCULATION OF AVERAGE NUMBER BELONGING BY ELIMINATING THE REQUIREMENT FOR A COUNT OF PUPILS ON THE FIRST MONDAY OF DECEMBER; CLARIFYING THAT PART-TIME PUPILS ARE INCLUDED IN ANB CALCULATIONS; AMENDING SECTION 20-9-311,

MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 628

158 *(House Bill No. 183; Mandeville)* REQUIRING THAT CERTAIN PARKS THAT ARE WHOLLY SURROUNDED BY PROPERTY BEING OR ALREADY ANNEXED BY A MUNICIPALITY BE INCLUDED IN THE ANNEXATION; AND AMENDING SECTION 7-2-4211, MCA 632

159 *(House Bill No. 197; Regier)* PROVIDING FOR AN ENHANCED SENTENCE FOR A PERSON CONVICTED OF A FORCIBLE FELONY AGAINST A PREGNANT WOMAN 632

160 *(House Bill No. 289; Greef)* REVISING ZONING REQUIREMENTS FOR TARGETED ECONOMIC DEVELOPMENT DISTRICTS; ALLOWING PROVISIONS ADOPTED THROUGH ZONING BY PETITION TO FULFILL THE ZONING REQUIREMENTS FOR CREATION OF A TARGETED ECONOMIC DEVELOPMENT DISTRICT; AND AMENDING SECTION 7-15-4279, MCA 633

161 *(House Bill No. 382; Dunwell)* REVISING TERMINOLOGY RELATING TO MENTAL ILLNESS; REPLACING REFERENCES TO "MENTAL DISEASE OR DEFECT", "MENTAL DEFECT", AND SIMILAR PHRASES WITH REFERENCES TO "MENTAL DISEASE OR DISORDER", "MENTAL DISORDER", AND SIMILAR PHRASES; AMENDING SECTIONS 37-3-103, 37-60-303, 39-3-406, 39-30-103, 44-5-103, 45-2-101, 45-2-211, 45-5-501, 45-8-321, 46-14-101, 46-14-102, 46-14-103, 46-14-202, 46-14-204, 46-14-206, 46-14-214, 46-14-217, 46-14-301, 46-14-302, 46-14-304, 46-14-311, 46-14-312, 46-15-323, 53-1-104, 80-20-102, AND 81-30-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 634

162 *(House Bill No. 397; Dudik)* REQUIRING THE RELEASE OF AN ORIGINAL BIRTH CERTIFICATE UPON THE WRITTEN REQUEST OF AN ADULT ADOPTEE; AND AMENDING SECTIONS 42-2-409, 42-6-102, 42-6-109, AND 50-15-223, MCA 665

163 *(House Bill No. 481; Hunter)* PROVIDING ONE ADDITIONAL REGISTRATION EXEMPTION TO SECURITIES LAWS; ALLOWING SECURITIES ISSUERS TO ENGAGE IN CERTAIN SECURITIES TRANSACTIONS IF CONDUCTED WITHIN THIS STATE; AMENDING SECTION 30-10-105, MCA; AND PROVIDING AN EFFECTIVE DATE . 669

164 *(House Bill No. 518; Ehli)* REVISING LAWS RELATED TO SEARCH WARRANTS; PROVIDING JUDGES WITH THE AUTHORITY TO TEMPORARILY SEAL DOCUMENTS SEIZED PURSUANT TO SEARCH WARRANTS WHEN THE DEMAND OF INDIVIDUAL PRIVACY CLEARLY EXCEEDS THE MERITS OF PUBLIC DISCLOSURE; AMENDING SECTION 46-11-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 674

165 *(House Bill No. 588; Cook)* REVISING LAWS RELATED TO A REDUCTION IN SPENDING; AMENDING SECTION 17-7-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 676

166 *(Senate Bill No. 41; Facey)* GENERALLY REVISING BUSINESS NAME AND REGISTRATION LAWS; PROVIDING RULEMAKING AUTHORITY; REVISING PROVISIONS RELATED TO ASSUMED BUSINESS NAMES, CONTESTED CASES, CORPORATE NAMES, FOREIGN LIMITED LIABILITY COMPANY CERTIFICATES OF AUTHORITY, AND REGISTRATION OF LIMITED LIABILITY PARTNERSHIPS; AMENDING SECTIONS 30-13-203, 35-1-310, 35-4-206, 35-8-1003, 35-10-701, AND 35-10-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 678

167 *(Senate Bill No. 151; Kary)* ELIMINATING THE REQUIREMENT THAT CAMPAIGN REPORTS ALSO BE FILED WITH AN ELECTION ADMINISTRATOR; AND AMENDING SECTIONS 13-37-201 AND 13-37-225, MCA 682

168 *(Senate Bill No. 174; Moe)* REVISING LAWS GOVERNING THE INVESTMENT AND EXPENDITURE OF PERMANENT CARE AND IMPROVEMENT FUNDS MANAGED BY TRUSTEES OF A CEMETERY ASSOCIATION; ALLOWING PERMANENT CARE AND IMPROVEMENT FUNDS TO BE MANAGED AND INVESTED PURSUANT TO THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; AMENDING SECTION 35-20-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 682

169 *(House Bill No. 44; Berry)* REVISING LAWS RELATED TO THE LICENSING OF PUBLIC ACCOUNTANTS; CREATING A SINGLE LICENSE TYPE FOR PUBLIC ACCOUNTANTS; ELIMINATING THE ISSUANCE OF CERTIFICATES AND PERMITS FOR PUBLIC ACCOUNTANTS; ELIMINATING THE ISSUANCE OF LICENSES FOR LICENSED PUBLIC ACCOUNTANTS; ALLOWING FOR A REGISTRATION FEE; REVISING REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANTS; AMENDING SECTIONS 2-7-501, 2-15-1756, 15-61-102, 15-63-102, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-302, 37-50-305, 37-50-309, 37-50-314, 37-50-316, 37-50-325, 37-50-330, 37-50-335, 37-50-341, 37-50-401, 37-50-402, 37-50-403, 80-4-502, AND 80-4-601, MCA; REPEALING SECTIONS 37-50-303, 37-50-304, 37-50-310, 37-50-311, 37-50-312, 37-50-313, MCA; AND PROVIDING EFFECTIVE DATES 683

170 *(House Bill No. 107; Cook)* REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REALLOCATING CERTAIN EMPLOYER CONTRIBUTIONS FROM THE SYSTEM'S DEFINED BENEFIT PLAN TO MEMBER ACCOUNTS IN THE SYSTEM'S DEFINED CONTRIBUTION PLAN; STRIKING THE ALLOCATION OF TEMPORARY CONTRIBUTIONS TO THE DEFINED CONTRIBUTION PLAN DISABILITY FUND; ELIMINATING A PROVISION REQUIRING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO ACTUARIALLY ADJUST CERTAIN CONTRIBUTIONS BETWEEN THE SYSTEM'S DEFINED BENEFIT PLAN AND THE SYSTEM'S DEFINED CONTRIBUTION PLAN; REALLOCATING A TEMPORARY EMPLOYER CONTRIBUTION FROM PAYING GENERAL LIABILITIES TO PAYING PLAN CHOICE RATE LIABILITIES AND THEN DIRECTING THE CONTRIBUTION TO MEMBER ACCOUNTS; AMENDING SECTIONS 19-2-303, 19-2-407, 19-3-2117, AND 19-21-214, MCA; REPEALING SECTION 19-3-2121, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 698

171 *(House Bill No. 193; Salomon)* REVISING THE PROCESSES FOR APPEALING COUNTY ZONING DECISIONS; PROVIDING THAT A DECISION OF A BOARD OF ADJUSTMENT MAY BE APPEALED TO A BOARD OF COUNTY COMMISSIONERS IF THE COMMISSIONERS ESTABLISH A PROCESS AND A DECISION BY A BOARD OF COUNTY COMMISSIONERS OR A BOARD OF ADJUSTMENT MAY BE APPEALED TO A COURT OF RECORD; AND AMENDING SECTIONS 76-2-226, 76-2-227, AND 76-2-228, MCA 707

172 *(House Bill No. 194; Redfield)* REQUIRING A FORAGE ANALYSIS AS PART OF A MANAGEMENT PLAN BEFORE WILD BUFFALO OR BISON ARE RELEASED OR TRANSPLANTED ONTO PRIVATE OR

PUBLIC LAND IN MONTANA; AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 709

173 *(House Bill No. 222; Hollandsworth)* PROHIBITING LOCAL GOVERNMENTS WITH SELF-GOVERNING POWERS FROM REQUIRING FEES AND PERMITS FOR MOVEMENT OF OVERSIZE LOADS ON CERTAIN HIGHWAYS; AND AMENDING SECTIONS 7-1-111, 7-14-4102, 7-14-4103, 7-14-4104, 61-10-121, AND 61-12-101, MCA 711

174 *(House Bill No. 227; Dudik)* ADOPTING THE 2008 UNIFORM FAMILY SUPPORT ACT; AMENDING SECTIONS 40-5-103, 40-5-143, 40-5-144, 40-5-145, 40-5-146, 40-5-147, 40-5-148, 40-5-149, 40-5-150, 40-5-151, 40-5-152, 40-5-153, 40-5-154, 40-5-157, 40-5-158, 40-5-159, 40-5-160, 40-5-161, 40-5-162, 40-5-163, 40-5-164, 40-5-165, 40-5-166, 40-5-171, 40-5-172, 40-5-173, 40-5-174, 40-5-175, 40-5-176, 40-5-177, 40-5-178, 40-5-179, 40-5-180, 40-5-181, 40-5-183, 40-5-184, 40-5-185, 40-5-186, 40-5-187, 40-5-188, 40-5-189, 40-5-190, 40-5-191, 40-5-192, 40-5-193, 40-5-194, 40-5-195, 40-5-196, 40-5-197, 40-5-272, AND 40-5-923, MCA; AND PROVIDING AN EFFECTIVE DATE. 715

175 *(House Bill No. 232; Dudik)* PROVIDING AN INCREASED PENALTY FOR THE THEFT OF IDENTITY OF A MINOR; AMENDING SECTION 45-6-332, MCA; AND PROVIDING AN APPLICABILITY DATE 745

176 *(House Bill No. 252; McCarthy)* ELIMINATING THE REQUIREMENT THAT RESEARCH AND COMMERCIALIZATION ACCOUNT FUNDS BE SPENT FOR RESEARCH INTO CLEAN COAL AND RENEWABLE RESOURCES; AMENDING SECTIONS 90-3-1002 AND 90-3-1003, MCA; AND PROVIDING AN EFFECTIVE DATE. 746

177 *(House Bill No. 285; Flynn)* PROVIDING FOR REVISED DEFINITIONS RELATED TO GUEST RANCHES; CLARIFYING WHAT CONSTITUTES A SEASONAL ESTABLISHMENT AND A SMALL ESTABLISHMENT; AMENDING SECTION 50-51-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 748

178 *(House Bill No. 366; Custer)* ALLOWING A CLERK OF DISTRICT COURT AND JUSTICE OF THE PEACE TO RECEIVE UP TO $2,000 A YEAR IN ADDITION TO BASE SALARY; AMENDING SECTION 7-4-2503, MCA; AND PROVIDING AN EFFECTIVE DATE. 750

179 *(House Bill No. 396; Jones)* REMOVING THE TERMINATION DATE FOR THE SMALL BUSINESS IMPACT ANALYSIS UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND REPEALING SECTION 6, CHAPTER 318, LAWS OF 2013 752

180 *(House Bill No. 410; Essmann)* GENERALLY REVISING LAWS REGARDING OLDER PERSONS, INCAPACITATED PERSONS, AND DEVELOPMENTALLY DISABLED PERSONS; PROVIDING FOR THE ADMISSIBILITY OF HEARSAY STATEMENTS UNDER CERTAIN CIRCUMSTANCES WHERE REASONABLE GUARANTEES OF TRUSTWORTHINESS ARE PRESENT IN CASES OF EXPLOITATION OF OLDER PERSONS, INCAPACITATED PERSONS, AND PERSONS WITH DEVELOPMENTAL DISABILITIES; CREATING THE OFFENSE OF EXPLOITATION OF AN OLDER PERSON, INCAPACITATED PERSON, OR DEVELOPMENTALLY DISABLED PERSON; PROVIDING PENALTIES; AND AMENDING SECTION 52-3-825, MCA. 752

181 *(House Bill No. 436; Dudik)* REVISING THE MONTANA UNIFORM TRUST CODE BY MAKING IT TECHNICALLY CONSISTENT WITH THE UNIFORM TRUST CODE; AND AMENDING SECTIONS 72-38-132, 72-38-301, 72-38-802, 72-38-1008, AND 72-38-1013, MCA 756

182 *(House Bill No. 482; Hunter)* PROVIDING THAT AN OFFENDER WHO IS A PROFESSIONAL LICENSED BY THE STATE AND COMMITS THE OFFENSE OF SEXUAL ASSAULT MUST REGISTER AS A SEXUAL OFFENDER ON THE SEXUAL AND VIOLENT OFFENDER REGISTRY IN CERTAIN CASES; REVISING DEFINITIONS; AMENDING SECTION 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 759

183 *(House Bill No. 513; Person)* REVISING LAWS REGARDING PRIVILEGED COMMUNICATIONS BETWEEN MENTAL HEALTH PROFESSIONALS AND CLIENTS; AMENDING SECTION 26-1-807, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 761

184 *(House Bill No. 522; Berry)* ESTABLISHING LAWS RELATED TO TRANSACTIONS REGARDING MONTANA FARM MUTUAL INSURERS; ALLOWING MONTANA FARM MUTUAL INSURERS TO UNDERGO MERGERS AND BULK REINSURANCE AGREEMENTS . 761

185 *(Senate Bill No. 31; Whitford)* ALLOWING RAW HONEY TO BE BARTERED AND SOLD AS A RAW AND UNPROCESSED FARM PRODUCT AT FARMER'S MARKETS WITHOUT A SPECIAL LICENSE; AMENDING SECTIONS 50-50-102 AND 50-50-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 762

186 *(Senate Bill No. 39; Smith)* GENERALLY REVISING THE LAWS RELATED TO PATENT AND COPYRIGHT TROLLING; PROVIDING FOR THE CIVIL OFFENSE OF BAD FAITH ASSERTION OF A PATENT RIGHT, INCLUDING REMEDIES AND DAMAGES AVAILABLE FOR THE OFFENSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 766

187 *(Senate Bill No. 79; Facey)* CLARIFYING THE FUNDING REQUIREMENTS WITH RESPECT TO PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-134 AND 81-1-102, MCA; AND PROVIDING AN EFFECTIVE DATE. 768

188 *(Senate Bill No. 109; Swandal)* PROVIDING FOR ATTORNEY FEES AND COSTS FOR THE PROPERTY OWNER IN AN ASSET FORFEITURE PROCEEDING; AND PROVIDING AN APPLICABILITY DATE 769

189 *(Senate Bill No. 141; Jones)* REPEALING THE TERMINATION OF A PROVISION ALLOWING CERTAIN RETIRED TEACHERS, SPECIALISTS, AND ADMINISTRATORS UNDER THE TEACHERS' RETIREMENT SYSTEM TO BE REEMPLOYED IN CERTAIN CIRCUMSTANCES WITHOUT BEING SUBJECT TO THE STANDARD LIMITATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 770

190 *(Senate Bill No. 42; Malek)* REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN AND THE UNIVERSITY SYSTEM RETIREMENT PROGRAM; AMENDING SECTIONS 19-2-303, 19-2-407, 19-3-2117, AND 19-21-214, MCA; REPEALING SECTION 19-3-2121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 770

191 *(Senate Bill No. 74; Moe)* ALLOCATING ADDITIONAL EMPLOYER CONTRIBUTIONS FOR MONTANA UNIVERSITY SYSTEM EMPLOYEES WHO ARE IN POSITIONS COVERED UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTION 19-21-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 778

192 *(House Bill No. 36; Lynch)* ALLOWING A CHANGE OF A WATER RIGHT PERMIT VOLUME FOR FAILURE TO COMPLETE APPROPRIATION WITHIN THE PERMIT TIME LIMIT; AMENDING SECTIONS 85-2-312 AND 85-2-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 779

193 *(House Bill No. 39; Price)* ALLOWING USE OF ELECTRONIC FUNDS TRANSFERS FOR CERTAIN PAYMENTS RELATED TO THE SALE AND LEASE OF STATE TRUST LAND; AND AMENDING SECTIONS 77-1-905 AND 77-2-363, MCA 787

194 *(House Bill No. 40; Berry)* REVISING APPOINTMENT AND TERMS OF MEMBERS TO BOARDS OF ADJUSTMENTS FOR CONSERVATION DISTRICTS; AMENDING SECTIONS 76-15-706, 76-15-721, AND 76-15-722, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 789

195 *(House Bill No. 49; Perry)* REVISING THE BOARD OF LAND COMMISSIONERS' REQUIREMENTS FOR REPORTING TO STATE TRUST LAND BENEFICIARIES; AMENDING SECTION 77-1-223, MCA; AND REPEALING SECTIONS 77-1-224 AND 77-1-225, MCA 791

196 *(House Bill No. 100; Garner)* REVISING THE DUTIES OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL RELATED TO CERTIFICATION OF PUBLIC SAFETY OFFICERS; REMOVING REFERENCES TO THE GENERAL EDUCATIONAL DEVELOPMENT TEST; ALLOWING CERTAIN MENTAL HEALTH PROFESSIONALS TO EXAMINE AND EVALUATE THE MENTAL HEALTH OF A PEACE OFFICER CANDIDATE; ALLOWING SUBSTITUTION OF A STANDARDIZED MENTAL HEALTH EVALUATION INSTRUMENT FOR THE MENTAL HEALTH EXAMINATION; REVISING CERTAIN COURSE REQUIREMENTS; REMOVING APPLICATION REQUIREMENTS BEFORE THE COUNCIL ISSUES A CERTIFICATE TO A PUBLIC SAFETY OFFICER WHO MEETS CERTAIN EDUCATIONAL AND PROBATIONARY REQUIREMENTS; ESTABLISHING THE COUNCIL AS A CRIMINAL JUSTICE AGENCY FOR THE PURPOSES OF THE MONTANA CRIMINAL JUSTICE INFORMATION ACT; AMENDING SECTIONS 7-32-303 AND 44-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 791

197 *(House Bill No. 111; Regier)* REVISING SENTENCING FOR FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AMENDING SECTION 61-8-731, MCA; AND PROVIDING AN APPLICABILITY DATE 794

198 *(House Bill No. 135; Eck)* REVISING PAROLE CRITERIA; EXPANDING EXISTING RULEMAKING AUTHORITY OF THE BOARD OF PARDONS AND PAROLE; AND AMENDING SECTIONS 46-23-201 AND 46-23-202, MCA. 796

199 *(House Bill No. 241; Berry)* CLARIFYING THAT CERTAIN AUTHORIZED EMERGENCY VEHICLES ARE NOT CONSIDERED COMMERCIAL MOTOR VEHICLES; AND AMENDING SECTION 61-1-101, MCA . . . 799

200 *(House Bill No. 272; Hill)* CREATING THE UNIFORM COLLABORATIVE LAW ACT; PROVIDING DEFINITIONS AND REQUIREMENTS FOR PARTICIPATION IN THE COLLABORATIVE LAW PROCESS; PROVIDING A DESCRIPTION OF THE COLLABORATIVE LAW AGREEMENT; REQUIRING NOTIFICATION OF A COURT WHEN ENTERING THE COLLABORATIVE LAW PROCESS; REQUIRING FULL DISCLOSURE OF INFORMATION TO THE OPPOSING PARTY; REQUIRING A COLLABORATIVE LAWYER TO MAKE REASONABLE INQUIRY INTO WHETHER THE PARTIES HAVE A HISTORY OF A VIOLENT RELATIONSHIP; PROVIDING PRIVILEGES AGAINST

DISCLOSURE FOR COLLABORATIVE LAW COMMUNICATIONS; AND PROVIDING AUTHORITY FOR A COURT TO ENFORCE A COLLABORATIVE LAW AGREEMENT IN THE CASE OF NONCOMPLIANCE 810

201 *(House Bill No. 367; Custer)* REVISING FEES OF THE COUNTY CLERK WITH REGARD TO FILING OF SUBDIVISION AND TOWNSITE PLATS AND CERTIFICATES OF SURVEY; INCREASING THE FEE FOR FILING OF SUBDIVISION AND TOWNSITE PLATS; CLARIFYING THE FEE FOR FILING EACH PAGE OF A DOCUMENT REQUIRED TO BE FILED WITH A SUBDIVISION, TOWNSITE PLAT, OR CERTIFICATE OF SURVEY; AND AMENDING SECTION 7-4-2631, MCA. 818

202 *(House Bill No. 372; Garner)* REPEALING THE MONTANA NATIONAL GUARD REENLISTMENT OR EXTENSION ACT OF 1981; REPEALING SECTIONS 10-1-801, 10-1-802, 10-1-803, 10-1-804, 10-1-805, AND 10-1-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 819

203 *(House Bill No. 429; Hill)* ENACTING THE INTERSTATE MEDICAL LICENSURE COMPACT; PROVIDING FOR THE INTERSTATE LICENSURE OF PHYSICIANS; AND DESIGNATING AN APPOINTING AUTHORITY 819

204 *(House Bill No. 507; Pierson)* REVISING LAWS RELATING TO INVESTIGATIONS OF ALLEGED MISTREATMENT, NEGLECT, OR ABUSE OF RESIDENTS AT A RESIDENTIAL FACILITY; CLARIFYING THE TIMEFRAME FOR INITIATING AN INVESTIGATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 53-20-163, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 832

205 *(House Bill No. 537; Berry)* REVISING LIMITED LIABILITY COMPANY LAWS TO PERMIT A COMPANY TO BE ORGANIZED FOR CAPTIVE INSURANCE; AMENDING SECTION 35-8-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 833

206 *(Senate Bill No. 8; Webb)* ALLOWING PRESCRIBING OF CERTAIN PRESCRIPTION DRUGS BY ELECTRONIC MEANS; AMENDING SECTIONS 50-31-307, 50-31-308, AND 50-32-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 833

207 *(House Bill No. 35; Ehli)* APPROPRIATING MONEY FOR SHORT-TERM VOLUNTARY INPATIENT MENTAL HEALTH TREATMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 53-21-1202, 53-21-1203, AND 53-21-1204, MCA; AND PROVIDING AN EFFECTIVE DATE 835

208 *(House Bill No. 47; Pease-Lopez)* APPROPRIATING MONEY FOR MENTAL HEALTH CRISIS DIVERSION PILOT PROJECTS FOR YOUTH; REQUIRING A REPORT; AND PROVIDING AN EFFECTIVE DATE 837

209 *(House Bill No. 69; Custer)* UPDATING THE TRAINING REQUIREMENTS FOR ELECTION ADMINISTRATORS AND ELECTION STAFF; AMENDING SECTIONS 13-1-203 AND 13-4-203, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE. 838

210 *(House Bill No. 85; Woods)* GENERALLY REVISING ADMINISTRATIVE AND FEDERAL TAX QUALIFICATION PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; REVISING PROVISIONS RELATED TO THE CORRECTION OF ERRORS, RECOVERY OF AMOUNTS DUE RESULTING FROM ERRORS, CREDITABLE SERVICE, OPTIONAL RETIREMENT ALLOWANCES, COMPENSATION LIMITATIONS, MAXIMUM CONTRIBUTIONS, DIFFERENTIAL WAGE PAYMENTS, DISABILITY BENEFITS, DEATH

BENEFITS, AND GROUP INSURANCE PREMIUM WITHHOLDING; AMENDING SECTIONS 19-20-401, 19-20-402, 19-20-403, 19-20-404, 19-20-405, 19-20-408, 19-20-409, 19-20-410, 19-20-426, 19-20-427, 19-20-702, 19-20-715, 19-20-716, 19-20-718, 19-20-802, 19-20-904, 19-20-1001, AND 19-20-1101, MCA; REPEALING SECTION 19-20-705, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 840

211 *(House Bill No. 102; Pinocci)* REVISING REGULATION OF REAL ESTATE TRANSACTIONS; PROVIDING AND CLARIFYING DEFINITIONS; CLARIFYING EXEMPTIONS FROM LICENSING PROVISIONS; REQUIRING A LICENSE TO CONDUCT REAL ESTATE BUSINESS IF THE REAL ESTATE IS LOCATED WITHIN THE STATE; REQUIRING A REAL ESTATE LICENSEE ACTING AS AN AGENT TO COMPLY WITH DISCLOSURE REQUIREMENTS; AMENDING SECTIONS 37-51-102, 37-51-103, 37-51-301, 37-51-306, 37-51-313, AND 37-51-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 857

212 *(House Bill No. 117; Lynch)* PROVIDING ADDITIONAL MECHANISMS FOR REGULATING UNLICENSED PRACTICE OF A PROFESSION OR OCCUPATION FOR THE STATE ELECTRICAL BOARD, BOARD OF PLUMBERS, AND BOARD OF REALTY REGULATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 866

213 *(House Bill No. 164; Schwaderer)* REVISING THE DISPOSITION OF PROCEEDS FROM A TRUSTEE SALE; ADDING ADDITIONAL FILING REQUIREMENTS UPON DEPOSIT OF SURPLUS FUNDS WITH THE COUNTY CLERK AND RECORDER; ALLOWING A LIENHOLDER TO FILE A PETITION REQUESTING DISBURSEMENT OF SURPLUS FUNDS FROM A TRUSTEE SALE TO SATISFY THE LIEN; REQUIRING THE COUNTY TREASURER TO DISBURSE SURPLUS FUNDS ACCORDING TO COURT ORDER; AND AMENDING SECTION 71-1-316, MCA. 867

214 *(House Bill No. 198; Regier)* CLARIFYING THAT A BALLOT MAY NOT STATE A CANDIDATE'S TITLE OR CERTAIN OTHER DESIGNATIONS; AND AMENDING SECTIONS 13-12-203 AND 20-20-401, MCA 868

215 *(House Bill No. 207; Zolnikov)* PROHIBITING GOVERNMENTAL BODIES FROM REQUESTING OR REQUIRING THE DISCLOSURE OF PRIVILEGED NEWS MEDIA INFORMATION FROM SERVICES THAT TRANSMIT ELECTRONIC COMMUNICATIONS; PROHIBITING AN ELECTRONIC COMMUNICATION SERVICE FROM BEING ADJUDGED IN CONTEMPT IF THE ELECTRONIC COMMUNICATION SERVICE REFUSES TO DISCLOSE CERTAIN INFORMATION; AND AMENDING SECTION 26-1-902, MCA. 869

216 *(House Bill No. 375; Lavin)* INCREASING MOTOR VEHICLE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR PROPERTY DAMAGE; AMENDING SECTION 61-6-103, MCA; AND PROVIDING AN APPLICABILITY DATE 870

217 *(House Bill No. 392; Garner)* ESTABLISHING PROVISIONS CONCERNING THE REEMPLOYMENT OF MEMBERS OF THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 872

218 *(House Bill No. 461; Lavin)* REVISING LAWS GOVERNING THE SALARY SCHEDULE OF A JUSTICE OF THE PEACE AND A DEPUTY COUNTY ATTORNEY; CLARIFYING THAT A JUSTICE OF THE PEACE MAY RECEIVE COMPENSATION IN ADDITION TO THE JUSTICE'S BASE

SALARY; PROVIDING FOR LONGEVITY INCREASES FOR DEPUTY COUNTY ATTORNEYS; AMENDING SECTION 7-4-2503, MCA; AND PROVIDING AN EFFECTIVE DATE 873

219 *(Senate Bill No. 338; Arntzen)* EXCLUDING CERTAIN VEHICLES FROM CERTAIN MAXIMUM WEIGHT LIMITATIONS IF TRAVELING ON PORTIONS OF MONTANA HIGHWAY 16; EXTENDING RULEMAKING AUTHORITY; AND AMENDING SECTION 61-10-107, MCA. 875

220 *(House Bill No. 99; McClafferty)* GENERALLY REVISING THE ADMINISTRATION OF GASOLINE AND SPECIAL FUEL TAXES; COMBINING THE GASOLINE TAX AND SPECIAL FUEL TAX INTO ONE PART OF LAW; ALLOWING FOR THE ISSUANCE OF A PROBATIONARY DISTRIBUTOR'S LICENSE; ELIMINATING THE REISSUANCE FEE FOR A SUSPENDED OR REVOKED DISTRIBUTOR'S LICENSE; REVISING THE TIME PERIOD FOR WHICH DISTRIBUTORS MUST KEEP RECORDS; AMENDING SECTIONS 7-14-301, 7-14-304, 15-30-2618, 15-70-104, 15-70-113, 15-70-121, 15-70-231, 15-70-235, 15-70-236, 15-70-301, 15-70-320, 15-70-326, 15-70-330, 15-70-341, 15-70-343, 15-70-344, 15-70-345, 15-70-348, 15-70-349, 15-70-351, 15-70-352, 15-70-353, 15-70-354, 15-70-356, 15-70-357, 15-70-361, 15-70-362, 15-70-364, 15-70-366, 15-70-503, 15-70-521, 15-70-522, 15-70-719, 60-3-201, 60-3-202, 61-12-206, 67-1-301, 75-11-302, AND 75-11-314, MCA; AND REPEALING SECTIONS 15-70-201, 15-70-202, 15-70-204, 15-70-205, 15-70-206, 15-70-207, 15-70-208, 15-70-209, 15-70-210, 15-70-211, 15-70-212, 15-70-221, 15-70-222, 15-70-223, 15-70-224, 15-70-225, 15-70-226, 15-70-232, 15-70-233, 15-70-242, 15-70-321, 15-70-324, AND 15-70-372, MCA 877

221 *(House Bill No. 168; Fitzpatrick)* CLARIFYING THE APPLICABILITY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION'S DEFINITION OF "COMBINED APPROPRIATION" FOR WATER RIGHT PERMIT EXCEPTIONS IN CERTAIN CIRCUMSTANCES AND PROVIDING RETROACTIVE APPLICABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 905

222 *(House Bill No. 208; Moore)* REVISING PAWNBROKER REGISTER REQUIREMENTS; ELIMINATING THE REQUIREMENT THAT THE REGISTER INCLUDE A RECORD OF THE SALE OF PAWNED ARTICLES; RESERVING TO PEACE OFFICERS THE RIGHT TO INSPECT THE REGISTER; AND AMENDING SECTION 31-1-402, MCA 906

223 *(House Bill No. 240; Berry)* ALLOWING SURPLUS LINES INSURANCE PRODUCERS TO CHARGE A FLAT FEE IN CONNECTION WITH SURPLUS LINES INSURANCE TRANSACTIONS; AMENDING SECTIONS 33-2-311 AND 33-18-212, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE 907

224 *(House Bill No. 319; Olszewski)* REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA 909

225 *(House Bill No. 324; Welborn)* ELIMINATING THE REQUIREMENT FOR INSURERS TO PROVIDE CERTIFICATION OF CREDITABLE COVERAGE; ALLOWING FOR CERTIFICATION TO BE ISSUED UPON REQUEST; AMENDING SECTION 33-22-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 911

226 *(House Bill No. 353; Greef)* REVISING LAWS RELATED TO A VACANCY ON THE PUBLIC SERVICE COMMISSION; REQUIRING THE

GOVERNOR'S APPOINTEE TO FILL A VACANCY TO BE FROM THE SAME POLITICAL PARTY AND DISTRICT AS THE FORMER INCUMBENT; REQUIRING THE GOVERNOR TO APPOINT AN INDIVIDUAL FROM LISTS OF NOMINEES PROVIDED BY THE AFFECTED STATE PARTY CENTRAL COMMITTEE; PROVIDING TIMELINES FOR THE APPOINTMENT PROCESS; AMENDING SECTION 69-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 913

227 *(House Bill No. 363; Funk)* REPEALING LAWS PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES OF DEBTORS WHO HAVE DEFAULTED ON STUDENT LOANS; AMENDING SECTION 20-26-1101, MCA; REPEALING SECTIONS 20-26-1115, 20-26-1116, 20-26-1117, 20-26-1118, 20-26-1119, 20-26-1120, AND 20-26-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 913

228 *(House Bill No. 431; Dunwell)* ALLOWING A PLAQUE, STATUE, OR OTHER ITEM OF TRIBUTE COMMEMORATING MONTANA'S FIRST TERRITORIAL GOVERNOR, SIDNEY EDGERTON, TO BE PLACED IN A STATE CAPITOL COMPLEX BUILDING OR ON THE GROUNDS OF THE CAPITOL COMPLEX; PROVIDING THAT THE MONTANA HISTORICAL SOCIETY PROCURE THE ITEM AND ADMINISTER FUNDS FOR THAT PURPOSE; REQUIRING PRIVATE FUNDING; AMENDING SECTION 2-17-808, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE 915

229 *(House Bill No. 536; Berry)* REVISING CAPTIVE INSURANCE LAWS TO APPLY TO ENTITIES FORMED OR OPERATED FOR THE BENEFIT OF A POLITICAL SUBDIVISION OF THE STATE; AMENDING SECTIONS 33-1-102 AND 33-28-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 917

230 *(House Bill No. 555; Fitzpatrick)* INCREASING THE ALLOWANCE THAT MAY BE PAID TO VOLUNTEER FIREFIGHTERS; AND AMENDING SECTION 19-17-110, MCA 923

231 *(House Bill No. 573; Lavin)* ALLOWING FOR AN ELECTRONIC ODOMETER STATEMENT WHEN TRANSFERRING VEHICLE OWNERSHIP; ELIMINATING THE REQUIREMENT THAT A MANUFACTURER'S CERTIFICATE OF ORIGIN BE SUBMITTED WITH AN APPLICATION FOR A VEHICLE TITLE; AND AMENDING SECTIONS 61-3-206, 61-3-216, 61-3-509, AND 61-4-104, MCA 924

232 *(Senate Bill No. 140; Jones)* REVISING THE METHODOLOGY FOR BUDGET COMPARISONS; PROVIDING A METHODOLOGY FOR EXPENDITURE COMPARISONS; AMENDING SECTIONS 17-7-150 AND 17-7-151, MCA; AND PROVIDING A TERMINATION DATE. . . . 928

233 *(Senate Bill No. 144; Buttrey)* CONSOLIDATING TWO EXISTING PROCUREMENT ACCOUNTS INTO ONE STATE SPECIAL REVENUE ACCOUNT; REVISING ACCEPTABLE USE OF MONEY IN THE ACCOUNT; AMENDING SECTION 18-4-227, MCA; AND PROVIDING AN EFFECTIVE DATE 930

234 *(Senate Bill No. 327; Blasdel)* ESTABLISHING A DEADLINE FOR THE PUBLIC SERVICE COMMISSION TO ISSUE AN ORDER FOR RATE SCHEDULES FOR THE PURCHASE OF ELECTRICITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE . . 930

235 *(House Bill No. 68; Kelker)* REVISING DEFINITIONS CONCERNING THE DUTY STATUS OF MONTANA NATIONAL GUARD MEMBERS;

CLARIFYING WHAT DUTY STATUS IS COVERED BY THE PROVISIONS OF THE MONTANA NATIONAL GUARD CIVIL RELIEF ACT, THE MONTANA MILITARY SERVICE EMPLOYMENT RIGHTS ACT, AND THE UNIFORM PROBATE CODE; AMENDING SECTIONS 10-1-902, 10-1-1002, 10-1-1003, 10-1-1006, 10-1-1007, 10-1-1201, 19-2-707, 20-25-421, AND 72-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 931

236 *(House Bill No. 209; Schreiner)* REVISING ELECTION LAWS RELATED TO THE DESIGNATION OF AN AGENT TO ASSIST AN ELECTOR WITH THE REGISTRATION AND VOTING PROCESS; PROVIDING THAT THE USE OF AN AGENT IS A REASONABLE ACCOMMODATION; AND AMENDING SECTION 13-1-116, MCA. 936

237 *(House Bill No. 288; Richmond)* REPEALING THE DEPARTMENT OF ADMINISTRATION'S AUTHORITY TO TRANSFER INFORMATION TECHNOLOGY FUNDS, EQUIPMENT, FACILITIES, AND EMPLOYEES; AMENDING SECTIONS 2-17-513 AND 2-17-516, MCA; REPEALING SECTION 2-17-531, MCA; AND PROVIDING AN EFFECTIVE DATE 937

238 *(House Bill No. 331; Schwaderer)* REVISING SIGNAGE AND GEOGRAPHICAL DESIGNATION LAWS; REQUIRING STATE LANDHOLDING AND LAND-MANAGING AGENCIES TO REMOVE THE WORDS "HALF-BREED" OR "BREED" FROM MAPS, SIGNS, OR MARKERS WHENEVER AGENCIES UPDATE MAPS OR REPLACE SIGNS AND MARKERS BECAUSE OF WEAR OR VANDALISM; REQUIRING THE DIRECTOR OF INDIAN AFFAIRS TO ENSURE THAT A LITTLE SHELL CHIPPEWA TRIBAL MEMBER IS APPOINTED TO THE ADVISORY GROUP ON NAMING SITES AND FEATURES; AMENDING SECTION 2-15-149, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 939

239 *(House Bill No. 478; Williams)* IMPLEMENTING SAFETY STANDARDS AND OVERSIGHT FOR COTTAGE FOOD OPERATIONS AND VARIOUS RETAIL FOOD ESTABLISHMENTS; PROVIDING CONDITIONS AND REGISTRATION REQUIREMENTS FOR COTTAGE FOOD OPERATIONS; CLARIFYING TERMS RELATING TO AND STATE REGULATION OF MOBILE FOOD ESTABLISHMENTS; PROVIDING FOR LOCAL BOARDS OF HEALTH TO OVERSEE AND ISSUE PERMITS FOR TEMPORARY FOOD ESTABLISHMENTS; CLARIFYING REGULATION OF COTTAGE FOOD OPERATIONS IN RELATION TO CERTAIN PRODUCTS; EXTENDING THE RULEMAKING AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 30-12-301, 50-31-103, 50-46-309, 50-50-101, 50-50-102, 50-50-103, 50-50-105, 50-50-109, 50-50-110, 50-50-201, 50-50-202, 50-50-203, 50-50-205, 50-50-208, 50-50-209, 50-50-211, 50-50-212, 50-50-213, 50-50-214, 50-50-215, 50-50-301, 50-50-302, 50-50-303, 50-50-305, 50-57-102, AND 81-22-208, MCA. 940

240 *(House Bill No. 529; Court)* PROHIBITING A CANDIDATE FROM SERVING AS A POLL WATCHER; AND AMENDING SECTION 13-13-120, MCA 961

241 *(House Bill No. 580; Bennett)* PROHIBITING CERTAIN PERSONS FROM DISTRIBUTING ANYTHING OF VALUE TO ELECTORS AT OR OUTSIDE A POLLING PLACE ON ELECTION DAY; AND AMENDING SECTION 13-35-211, MCA 962

242 *(House Bill No. 439; Redfield)* REQUIRING THE BOARD OF LIVESTOCK TO ELECTRONICALLY RECORD MEETINGS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 962

243 *(House Bill No. 578; Lang)* REQUIRING THAT THE NORTHEAST MONTANA VETERANS MEMORIAL PARK IN FORT PECK, MONTANA, BE DESIGNATED ON OFFICIAL STATE MAPS 963

244 *(Senate Bill No. 101; Driscoll)* ALLOWING THE DEPARTMENT OF CORRECTIONS TO SET A PERCENTAGE OF EARNINGS THAT INMATE WORKERS ARE REQUIRED TO SAVE; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 53-1-107, MCA. 963

245 *(Senate Bill No. 255; Brown)* REVISING THE REQUIREMENTS FOR THE ADVANCING AGRICULTURAL EDUCATION IN MONTANA PROGRAM; REMOVING THE LIMIT ON PAYMENTS PER SCHOOL YEAR; AUTHORIZING PAYMENTS TO EXISTING PROGRAMS THAT ADD ADDITIONAL TEACHERS; AMENDING SECTION 20-7-334, MCA; AND PROVIDING AN EFFECTIVE DATE. 965

246 *(House Bill No. 342; Bennett)* ALLOWING FOR ELECTRONIC ADDRESS CONFIRMATION FOR AN ELECTOR RESPONDING TO THE BIENNIAL ABSENTEE BALLOT LIST CONFIRMATION MAILING; ALLOWING AN ELECTOR TO RESPOND TO THE CONFIRMATION MAILING USING E-MAIL; ALLOWING AN ELECTION ADMINISTRATOR TO ESTABLISH A WEBSITE FOR ELECTORS TO RESPOND TO THE CONFIRMATION MAILING; AND AMENDING SECTION 13-13-212, MCA 966

247 *(House Bill No. 400; Custer)* ALLOWING AN ELECTOR WITH A DISABILITY TO VOTE USING AN ELECTRONIC BALLOT; PROVIDING VOTING PROCEDURES RELATING TO ELECTRONIC BALLOTS FOR ELECTORS WITH DISABILITIES; REVISING THE SECRETARY OF STATE'S RULEMAKING AUTHORITY; AND AMENDING SECTION 13-19-301, MCA 968

248 *(House Bill No. 101; Steenberg)* GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR RECOVERY OF IMPROPER PAYMENTS; REVISING CERTAIN BENEFITS FOR CONTINGENT ANNUITANTS AND BENEFICIARIES; CLARIFYING OPTIONAL MEMBERSHIP PROVISIONS; CLARIFYING THE CALCULATION OF CERTAIN BENEFITS; REVISING CERTAIN BENEFIT PAYMENTS AND MEMBERSHIP ELECTION PROVISIONS; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 5-2-304, 19-2-405, 19-2-801, 19-2-903, 19-2-904, 19-2-908, 19-3-411, 19-3-412, 19-3-904, 19-3-1105, 19-3-1106, 19-3-1210, 19-3-1501, 19-3-2141, 19-5-701, 19-5-802, 19-7-301, 19-7-410, 19-7-503, 19-7-1001, 19-8-302, 19-8-801, 19-8-1001, 19-8-1002, 19-9-301, 19-9-1206, 19-17-112, AND 19-20-302, MCA; REPEALING SECTION 19-9-1020, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 970

249 *(House Bill No. 557; Harris)* REVISING WHAT CONSTITUTES A LEGAL FENCE IN MONTANA; ADDING THREE-WIRE ELECTRIC FENCE TO THE LIST OF LEGAL FENCES; AMENDING SECTIONS 76-16-322 AND 81-4-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 996

250 *(House Bill No. 564; Person)* GENERALLY REVISING STATE LAW RELATED TO THE SOCIAL SECURITY ACT; REVISING DEFINITIONS; UPDATING REFERENCES TO FEDERAL LAW; UPDATING LANGUAGE CONCERNING EXCLUSIONS, REFERENDUMS, RULEMAKING, AGREEMENTS, AND CONTRIBUTIONS; AND AMENDING SECTIONS 19-1-102, 19-1-103, 19-1-104, 19-1-201, 19-1-202, 19-1-302, 19-1-303, 19-1-304, 19-1-401, 19-1-402, 19-1-501, 19-1-502, 19-1-503, 19-1-702, 19-1-704, 19-1-811, 19-1-815, 19-1-822, 19-1-823, 19-1-824, AND 19-1-826, MCA. 997

251 *(Senate Bill No. 48; Vincent)* REQUIRING ELECTRONIC REPORTING OF EPHEDRINE OR PSEUDOEPHEDRINE SALES; PROVIDING FOR THE ESTABLISHMENT OF AND PARTICIPATION IN AN ELECTRONIC RECORDKEEPING AND MONITORING SYSTEM; PROVIDING IMMUNITY; AMENDING SECTIONS 50-32-501 AND 50-32-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 1002

252 *(Senate Bill No. 150; Windy Boy)* INCREASING THE AMOUNT OF UNIVERSAL SYSTEM BENEFITS FUNDS USED BY A PUBLIC UTILITY FOR LOW-INCOME ENERGY AND WEATHERIZATION ASSISTANCE; CLARIFYING WAYS A PUBLIC UTILITY MAY PROVIDE ASSISTANCE; AMENDING SECTIONS 69-8-402 AND 69-8-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 1006

253 *(House Bill No. 284; Dudik)* PROMOTING SAFE SCHOOLS AND CREATING THE BULLY-FREE MONTANA ACT; PROVIDING DEFINITIONS; PROHIBITING BULLYING OF STUDENTS; AND CLARIFYING REDRESS 1012

254 *(House Bill No. 259; Moore)* CLARIFYING CERTAIN REQUIREMENTS FOR AUTOMOBILE DEALERS, WHOLESALERS, AND AUCTIONS FOR MAINTAINING VEHICLE OWNERSHIP RECORDS; AUTHORIZING AUTOMOBILE DEALERS, WHOLESALERS, AND AUCTIONS TO MAINTAIN A PHOTOCOPY, ELECTRONIC, OR DIGITAL RECORD OF VEHICLE OWNERSHIP; AND AMENDING SECTION 61-4-104, MCA . 1013

255 *(House Bill No. 280; Essmann)* GENERALLY REVISING AND CLARIFYING LAWS RELATED TO BICYCLE TRAFFIC; REVISING THE DEFINITION OF "BICYCLE"; PROVIDING A DEFINITION OF "ELECTRICALLY ASSISTED BICYCLE"; ALLOWING BICYCLISTS TO OVERTAKE AND PASS ON THE RIGHT SHOULDER OF A ROADWAY; PROVIDING CIRCUMSTANCES WHEN A FASTER VEHICLE MAY PASS A BICYCLE WITHIN A NO-PASSING ZONE; REVISING WHERE BICYCLES MAY BE RIDDEN ON ROADWAYS; REVISING THE REQUIREMENTS FOR NIGHTTIME VISIBILITY AND BRAKING FOR BICYCLES; AND AMENDING SECTIONS 61-8-102, 61-8-324, 61-8-326, 61-8-604, 61-8-605, 61-8-606, AND 61-8-607, MCA. 1014

256 *(House Bill No. 318; Hill)* REQUIRING COVERAGE OF CERTAIN THERAPIES FOR CHILDREN WITH DOWN SYNDROME; AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE. . . 1019

257 *(House Bill No. 460; Mehlhoff)* DESIGNATING THE MONTANA VETERANS MEMORIAL IN GREAT FALLS, MONTANA, AS A MONTANA VETERANS' MEMORIAL 1026

258 *(Senate Bill No. 238; Blasdel)* ESTABLISHING A DEFERRED RETIREMENT OPTION PLAN IN THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; SPECIFYING ELIGIBILITY AND PARTICIPATION CRITERIA; SPECIFYING CONTRIBUTIONS AND THE INTEREST RATE TO BE CREDITED; PROVIDING FOR

SURVIVORSHIP BENEFITS AND DISTRIBUTION OPTIONS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 19-6-710, MCA; AND PROVIDING A CONTINGENT VOIDNESS 1026

259 *(Senate Bill No. 289; Ankney)* GENERALLY REVISING CAMPAIGN FINANCE LAWS; REVISING DEFINITIONS OF "CONTRIBUTION", "EXPENDITURE", AND "POLITICAL COMMITTEE"; CLARIFYING TYPES OF POLITICAL COMMITTEES; DEFINING CAMPAIGN-RELATED TERMS; REVISING ATTRIBUTION REQUIREMENTS; PROHIBITING A UNION FROM CONTRIBUTING TO CANDIDATES; REQUIRING THE COMMISSIONER OF POLITICAL PRACTICES TO ADOPT RULES TO DETERMINE THE PRIMARY PURPOSE OF AN INCIDENTAL COMMITTEE AND TO DEFINE WHAT CONSTITUTES A DE MINIMIS ACT, CONTRIBUTION, OR EXPENDITURE; REVISING WHEN A POLITICAL COMMITTEE FILES CERTIFICATION WITH THE COMMISSIONER; CLARIFYING DISCLOSURE REQUIREMENTS FOR CERTAIN ELECTION MATERIALS; REVISING THE TIMES FOR FILING CERTAIN REPORTS; CLARIFYING DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS AND EXPENDITURES; ALLOWING THE COMMISSIONER OF POLITICAL PRACTICES TO REQUIRE CERTAIN REPORTS TO BE FILED ELECTRONICALLY; REQUIRING THE COMMISSIONER TO POST CERTAIN REPORT INFORMATION ON A WEBSITE; PROVIDING DISCLOSURE REQUIREMENTS FOR INCIDENTAL COMMITTEES; CLARIFYING THAT CERTAIN DISCLOSURE REPORTS ARE TO BE FILED REGARDLESS OF AN ENTITY'S TAX STATUS; REVISING AND EXPANDING THE COMMISSIONER'S RULEMAKING AUTHORITY; AMENDING SECTIONS 2-2-121, 13-1-101, 13-35-225, 13-35-227, 13-35-402, 13-37-114, 13-37-201, 13-37-216, 13-37-219, 13-37-225, 13-37-226, 13-37-228, 13-37-229, 13-37-231, AND 13-37-402, MCA; AND REPEALING SECTION 13-37-230, MCA 1030

260 *(House Bill No. 250; Wagoner)* CLARIFYING THAT SOUND REDUCTION DEVICES MAY BE USED ON FIREARMS WHILE HUNTING WILDLIFE; AMENDING SECTION 87-6-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1050

261 *(House Bill No. 330; Schwaderer)* ESTABLISHING STANDARDS AND LIMITS FOR LOCAL LAW ENFORCEMENT ACQUISITION AND USE OF CERTAIN EQUIPMENT; AND REQUIRING A LOCAL LAW ENFORCEMENT AGENCY TO PROVIDE PUBLIC NOTIFICATION . . 1051

262 *(House Bill No. 334; Cook)* GENERALLY REVISING LAWS APPLICABLE TO COUNTY GOVERNMENT; AMENDING THE THRESHOLD FOR CERTAIN LOCAL GOVERNMENT AUDITS; AMENDING THE DEFINITION OF "POLITICAL SUBDIVISION"; REQUIRING CERTAIN BOARDS, DISTRICTS, AND COMMISSIONS TO SUBMIT THEIR MINUTES TO THE COUNTY CLERK AND RECORDER FOR ELECTRONIC STORAGE AT NO COST; REQUIRING A PUBLIC LOCATION FOR POSTING COUNTY INFORMATION; ADJUSTING RESIDENCY REQUIREMENTS FOR COUNTY COMMISSIONERS; PROVIDING FOR APPOINTMENT TO FILL A VACANCY CREATED BY A NONPARTISAN COMMISSIONER; AMENDING THE REQUIREMENTS FOR SETTING CONSOLIDATED OFFICE SALARIES; REQUIRING THAT A PLAN BE ADOPTED FOR A CAPITAL IMPROVEMENT FUND; REMOVING THE REQUIREMENT THAT A COUNTY TREASURER MAKE AN ANNUAL FINANCIAL REPORT TO THE COUNTY SUPERINTENDENT; AMENDING REQUIREMENTS CONCERNING WHEN A COUNTY MUST SUBMIT INDEBTEDNESS OR LIABILITY TO A VOTE OF THE ELECTORS OF THE COUNTY;

REVISING THE ALLOWABLE METHODS OF ASSESSMENT FOR SPECIAL DISTRICTS; REVISING DEADLINES FOR A RESOLUTION LEVYING COSTS IN A LIGHTING DISTRICT; REVISING COUNTY LAND AND ROAD SURVEYOR REQUIREMENTS AND COUNTY ENGINEER REQUIREMENTS; REVISING THE BODY EMPLOYING A WEED COORDINATOR; REVISING THE GROUNDS FOR TERMINATION AND WRITTEN NOTICE REQUIREMENTS FOR TERMINATION OF A DEPUTY SHERIFF; REPEALING REQUIREMENTS CONCERNING COUNTY TREASURER RECEIPTS; REPEALING CERTAIN REQUIREMENTS WITH RESPECT TO INCREASING PROPERTY TAXES; AMENDING SECTIONS 2-7-503, 2-9-101, 7-4-2104, 7-4-2106, 7-4-2312, 7-4-2631, 7-4-2801, 7-6-616, 7-6-2801, 7-7-2101, 7-11-1024, 7-12-2202, 7-14-2606, 7-22-2101, 7-32-2107, 7-32-2108, AND 20-9-212, MCA; REPEALING SECTIONS 7-6-2116 AND 15-10-203, MCA; AND PROVIDING AN EFFECTIVE DATE 1051

263 *(House Bill No. 343; Bennett)* PROHIBITING AN EMPLOYER FROM REQUESTING ONLINE PASSWORDS OR USER NAMES FOR AN EMPLOYEE'S OR JOB APPLICANT'S PERSONAL SOCIAL MEDIA ACCOUNTS; PROVIDING EXCEPTIONS; DEFINING "PERSONAL SOCIAL MEDIA"; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1063

264 *(House Bill No. 350; Shaw)* REVISING VENDOR REPRESENTATIVE REQUIREMENTS FOR LIQUOR SALES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 16-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1065

265 *(House Bill No. 422; Ehli)* CREATING A PILOT PROJECT TO IMPROVE OUTCOMES FOR YOUTH IN THE CHILDREN'S MENTAL HEALTH SYSTEM; REQUIRING AN INTERIM STUDY OF EVIDENCE-BASED OUTCOMES; PROVIDING FOR PUBLIC PARTICIPATION IN DEVELOPMENT OF EVIDENCE-BASED OUTCOMES MODELS; REQUIRING COLLECTION AND ANALYSIS OF DATA; PROVIDING FOR DEVELOPMENT OF OPTIONS FOR PERFORMANCE-BASED REIMBURSEMENT; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE . . 1066

266 *(House Bill No. 447; Wagoner)* ALLOWING A PERSON WHO PREVAILS IN AN ACTION TO ENFORCE THE CONSTITUTIONAL RIGHT TO PARTICIPATE TO BE AWARDED COSTS AND REASONABLE ATTORNEY FEES; AMENDING SECTION 2-3-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 1068

267 *(House Bill No. 503; Berry)* PROVIDING THAT LOSS INFORMATION RELATED TO INSURANCE MUST BE PROVIDED TO THE POLICYHOLDER ON REQUEST; INCLUDING LOSS RESERVES AS PART OF LOSS INFORMATION FOR WORKERS' COMPENSATION CLAIMS; LIMITING THE USES OF LOSS INFORMATION BY POLICYHOLDERS AND PROHIBITING FURTHER DISCLOSURE OF LOSS INFORMATION; AMENDING SECTION 39-71-606, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1069

268 *(Senate Bill No. 34; Facey)* REVISING LAWS RELATED TO FUNDING AND ACCESS FOR THE SALE OF STATE CABIN OR HOME SITES; ALLOWING ADVANCE PAYMENT OF SURVEY COSTS; PROVIDING FOR ACCESS EASEMENTS TO CABIN OR HOME SITES; AMENDING SECTIONS 77-2-318, 77-2-325, AND 77-2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1070

269 *(Senate Bill No. 57; Vincent)* REVISING WATER RIGHTS ADJUDICATION LAWS; REVISING PROVISIONS OF THE WATER ADJUDICATION ACCOUNT; REVISING DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PERFORMANCE BENCHMARKS RELATED TO WATER RIGHTS ADJUDICATION; REVISING REPORTING REQUIREMENTS RELATED TO WATER RIGHTS ADJUDICATION; AMENDING SECTIONS 17-7-102, 85-2-231, 85-2-237, 85-2-270, 85-2-271, 85-2-280, 85-2-281, AND 85-2-282, MCA; AMENDING SECTION 18, CHAPTER 288, LAWS OF 2005, AND SECTION 11, CHAPTER 319, LAWS OF 2007; AND PROVIDING AN EFFECTIVE DATE 1073

270 *(Senate Bill No. 168; Buttrey)* PROTECTING THE EDUCATIONAL RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE UNITED STATES ARMED FORCES AND THE MONTANA NATIONAL GUARD; CREATING THE MONTANA MILITARY SERVICE HIGHER EDUCATION ACT; PROVIDING CERTAIN ACADEMIC AND FINANCIAL PROTECTIONS FOR STUDENTS CALLED TO ACTIVE DUTY; AND PROVIDING AN EFFECTIVE DATE 1082

271 *(Senate Bill No. 183; Brown)* REVISING MILK LICENSING ASSESSMENTS; REQUIRING MONTHLY PAYMENTS; ELIMINATING AUTOMATIC TERMINATION OF A LICENSE FOR NONPAYMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 81-23-202, MCA; AND PROVIDING AN EFFECTIVE DATE 1084

272 *(Senate Bill No. 209; Rosendale)* REGULATING THE USE OF VEHICLE EVENT DATA RECORDERS; CLARIFYING OWNERSHIP OF VEHICLE EVENT DATA AND THE OWNERSHIP OF VEHICLE DATA UPON TRANSFER OF A VEHICLE; AUTHORIZING A COURT TO ORDER PRODUCTION OF VEHICLE DATA WITH A SEARCH WARRANT; AND PROVIDING FOR THE RELEASE OF VEHICLE EVENT DATA IN CERTAIN CASES 1085

273 *(Senate Bill No. 219; Taylor)* REQUIRING AUTOMATIC DISMISSAL OF CHARGES FOLLOWING COMPLETION OF A DEFERRED IMPOSITION OF SENTENCE FOR A FELONY CONVICTION; AMENDING SECTION 46-18-204, MCA; AND PROVIDING AN APPLICABILITY DATE 1087

274 *(Senate Bill No. 220; Kaufmann)* ABOLISHING THE ELECTRONIC GOVERNMENT ADVISORY COUNCIL; TRANSFERRING THE COUNCIL'S DUTIES TO THE INFORMATION TECHNOLOGY BOARD; REQUIRING A REPORT TO THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE; AMENDING SECTIONS 2-17-513, 2-17-1102, AND 2-17-1103, MCA; REPEALING SECTION 2-17-1105, MCA; AND PROVIDING AN EFFECTIVE DATE 1087

275 *(Senate Bill No. 221; Barrett)* DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ATTEMPT TO DISPOSE OF THE WILLOW CREEK DAM PROJECT; AMENDING SECTION 85-1-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1090

276 *(Senate Bill No. 237; Blasdel)* REVISING REQUIREMENTS GOVERNING A LOCAL GOVERNMENT IMPACT FEE SERVICE AREA REPORT AND IMPACT FEE ADVISORY COMMITTEE; INCREASING THE TIME PERIOD FOR WHEN THE BUDGET COMPONENT OF AN IMPACT FEE SERVICE AREA REPORT MUST BE REVIEWED; ELIMINATING THE REQUIREMENT THAT AN ACCOUNTANT SERVE ON AN IMPACT FEE ADVISORY COMMITTEE; AND AMENDING SECTIONS 7-6-1602 AND 7-6-1604, MCA 1091

277 *(Senate Bill No. 240; Buttrey)* CONTINUING MONTANA'S PARTICIPATION IN THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; REQUIRING A BIENNIAL REPORT ON THE STATE'S PARTICIPATION AND EFFORTS; AMENDING SECTION 20-1-231, MCA; REPEALING SECTION 4, CHAPTER 321, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1093

278 *(Senate Bill No. 256; Hamlett)* CLARIFYING THE ATTORNEY GENERAL'S AUTHORITY TO INTERVENE IN LITIGATION INVOLVING PROJECTS THAT LIE WITHIN A LANDSCAPE-SCALE INSECT AND DISEASE AREA DESIGNATED BY THE U.S. DEPARTMENT OF AGRICULTURE; AMENDING SECTION 76-13-154, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1094

279 *(Senate Bill No. 270; Taylor)* EXEMPTING CERTAIN SEASONAL ESTABLISHMENTS FROM MINIMUM WAGE REQUIREMENTS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1094

280 *(Senate Bill No. 307; Stewart-Peregoy)* REVISING RECOGNITION OF FOREIGN BUSINESS ENTITIES TO INCLUDE ENTITIES FORMED UNDER LAWS OF A FEDERALLY RECOGNIZED INDIAN TRIBE; REVISING DEFINITIONS FOR CONSISTENCY; AMENDING SECTIONS 35-1-113, 35-1-311, 35-1-819, 35-1-1028, 35-1-1029, 35-1-1037, 35-1-1038, 35-2-114, 35-2-307, 35-2-613, 35-2-822, 35-2-823, 35-2-831, 35-2-832, 35-3-205, 35-4-109, 35-5-201, 35-8-102, 35-8-108, 35-8-1007, 35-8-1010, 35-8-1011, 35-10-641, 35-12-504, AND 35-12-1301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1097

281 *(Senate Bill No. 330; Hamlett)* REQUIRING A REVIEW OF STATE WATER RESERVATIONS BY JULY 1, 2016; REQUIRING A REPORT TO THE WATER POLICY INTERIM COMMITTEE; CLARIFYING ACTIONS RELATED TO STATE WATER RESERVATIONS; AMENDING SECTION 85-2-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1118

282 *(Senate Bill No. 333; Hinkle)* CLARIFYING POLICY TOWARD NONRESIDENT HUNTERS; AND AMENDING SECTION 87-3-303, MCA 1122

283 *(Senate Bill No. 361; Hamlett)* CLARIFYING WHO MAY OBJECT TO PROCEEDINGS IN THE WATER COURT BY REVISING THE DEFINITION OF "GOOD CAUSE SHOWN"; AND AMENDING SECTION 85-2-233, MCA 1122

284 *(House Bill No. 60; Curdy)* REVISING PENALTY AND INTEREST PROVISIONS FOR GASOLINE AND SPECIAL FUEL TAXES; AMENDING PROVISIONS RELATED TO THE WAIVER OF PENALTIES; AND AMENDING SECTIONS 15-70-210 AND 15-70-352, MCA. 1125

285 *(House Bill No. 89; Dudik)* GENERALLY REVISING HUMAN TRAFFICKING LAWS; PROVIDING FOR TRAFFICKING-RELATED OFFENSES; PROVIDING PENALTIES; PROVIDING EVIDENTIARY STANDARDS FOR TRAFFICKING PROSECUTIONS; PROVIDING IMMUNITY FOR CHILD TRAFFICKING VICTIMS; PROVIDING AN AFFIRMATIVE DEFENSE; PROVIDING FOR TRAFFICKING VICTIM CONFIDENTIALITY; ESTABLISHING A CIVIL CAUSE OF ACTION FOR TRAFFICKING VICTIMS; ESTABLISHING PROTOCOL FOR ASSISTING TRAFFICKING VICTIMS IN ACCESSING CERTAIN SERVICES OR BENEFITS; CREATING A HUMAN TRAFFICKING EDUCATION SPECIAL REVENUE ACCOUNT; EXTENDING THE TERMINATION DATE OF THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTIONS 1-1-411, 44-5-311, 46-18-111,

46-18-201, 46-18-203, 46-18-205, 46-18-207, 46-18-222, 46-18-231, 46-18-608, 46-23-502, AND 46-23-1011, MCA; REPEALING SECTIONS 45-5-305, 45-5-306, 45-5-310, AND 45-5-311, MCA; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009; AND PROVIDING AN EFFECTIVE DATE 1126

286 *(House Bill No. 196; Webber)* CLARIFYING THAT REIMBURSEMENTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES ARE FOR SERVICES RENDERED; REVISING THE MAXIMUM REIMBURSEMENT; AMENDING SECTIONS 20-1-225 AND 20-25-428, MCA; AND PROVIDING AN EFFECTIVE DATE 1145

287 *(House Bill No. 337; Karjala)* INCREASING THE RESOURCE LIMITS FOR WORKERS WITH DISABILITIES WHO ARE RECEIVING MEDICAID; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE 1147

288 *(House Bill No. 358; Lynch)* GENERALLY REVISING LAWS RELATING TO LICENSED ADDICTION COUNSELORS; TRANSFERRING THE DUTIES RELATED TO REGULATING LICENSED ADDICTION COUNSELORS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; RENAMING AND REVISING THE MEMBERSHIP OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REQUIRING APPLICANTS FOR LICENSURE AS ADDICTION COUNSELORS TO SUBMIT TO BACKGROUND CHECKS; REVISING REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS ADDICTION COUNSELORS; PROVIDING A DEFINITION OF "ADDICTION COUNSELOR LICENSURE CANDIDATE"; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-22-201, 37-23-102, 37-35-102, 37-35-103, 37-35-201, 37-35-202, AND 37-37-102, MCA; AND REPEALING SECTIONS 37-35-301, 37-35-303, AND 37-35-304, MCA 1153

289 *(House Bill No. 525; Noland)* REVISING AQUATIC INVASIVE SPECIES FUNDING LAWS; CREATING A TRUST FUND AND A GRANT ACCOUNT; RESTRICTING TRUST FUND EXPENDITURES; PROVIDING GRANT CRITERIA; PROVIDING RULEMAKING AUTHORITY; ALLOWING TRUST FUNDS TO BE USED IN AN EMERGENCY; AMENDING SECTION 80-7-1013, MCA; AND PROVIDING AN EFFECTIVE DATE 1159

290 *(House Bill No. 553; Noland)* REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES; REVISING DEPARTMENTAL DUTIES; ALLOWING OTHER ENTITIES TO OPERATE CHECK STATIONS; PROVIDING ENFORCEMENT; AND AMENDING SECTIONS 80-7-1006 AND 80-7-1015, MCA 1161

291 *(House Bill No. 606; Clark)* PROVIDING FOR A STATUTORY APPROPRIATION OF TITLE X FAMILY PLANNING FUNDS; CREATING A SPECIAL REVENUE ACCOUNT; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1164

292 *(Senate Bill No. 68; Caferro)* EXTENDING THE TERMINATION DATE FOR THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1165

293 *(Senate Bill No. 253; McNally)* GENERALLY REVISING LAWS RELATED TO POWERS OF APPOINTMENT; ADOPTING THE UNIFORM POWERS

OF APPOINTMENT ACT; AND REPEALING SECTIONS 70-1-704, 72-2-618, AND 72-2-714, MCA. 1166

294 *(Senate Bill No. 262; Vincent)* RATIFYING A WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA; CREATING A UNITARY ADMINISTRATION AND MANAGEMENT ORDINANCE TO GOVERN WATER RIGHTS ON THE FLATHEAD RESERVATION; PROVIDING EXCEPTIONS FROM CERTAIN STATE WATER LAWS RELATED TO DEPARTMENT POWERS, JUDICIAL ENFORCEMENT, AND WATER RIGHTS PERMITTING; AMENDING SECTIONS 3-7-211, 85-2-111, 85-2-114, 85-2-301, 85-2-302, 85-2-306, 85-2-427, 85-2-506, AND 85-5-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1174

295 *(Senate Bill No. 294; Moore)* REVISING THE AUTHORITY OF A HOSPITAL DISTRICT TO BORROW MONEY; ALLOWING NOTES ISSUED TO PROVIDE FUNDS FOR A HOSPITAL DISTRICT TO MATURE OVER A TERM NOT TO EXCEED 30 YEARS IF APPROVED BY THE DISTRICT ELECTORS; AMENDING SECTION 7-34-2131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 1285

296 *(Senate Bill No. 355; Ankney)* ESTABLISHING REQUIREMENTS FOR THE USE AND REIMBURSEMENT OF FEDERAL PETROLEUM BROWNFIELDS MONEY AT PETROLEUM TANK RELEASE SITES; ESTABLISHING THE MONTANA PETROLEUM BROWNFIELDS REVITALIZATION ACT; ESTABLISHING REQUIREMENTS TO BE USED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN DETERMINING ELIGIBILITY FOR THE USE OF FEDERAL BROWNFIELDS GRANTS AT PETROLEUM TANK RELEASE SITES; PROHIBITING THE DEPARTMENT FROM LIMITING THE USE OF FEDERAL BROWNFIELDS MONEY AT PETROLEUM TANK RELEASE SITES UNDER CERTAIN CONDITIONS; REQUIRING THE DEPARTMENT TO COORDINATE WITH CERTAIN ENTITIES WHEN USING FEDERAL BROWNFIELDS GRANTS OBTAINED BY THE DEPARTMENT AT CERTAIN PETROLEUM TANK RELEASE SITES; DEFINING TERMS; AMENDING SECTIONS 75-11-307 AND 75-11-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1286

297 *(Senate Bill No. 384; Webb)* REQUIRING THAT CERTAIN NOTICES OF NO CONTACT BE ISSUED ONLY AFTER AUTHORIZATION BY A COURT OF COMPETENT JURISDICTION 1294

298 *(House Bill No. 4; Ballance)* APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2015; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE INTO STATE AND FEDERAL FISCAL YEARS 2016 AND 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1295

299 *(House Bill No. 7; Cuffe)* IMPLEMENTING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE 1304

300 *(House Bill No. 11; Cuffe)* APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH

THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PLANNING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; AND PROVIDING AN EFFECTIVE DATE 1307

301 *(House Bill No. 411; Richmond)* REVISING THE PRICE OF A BARREL OF CRUDE OIL IN RELATION TO THE IMPOSITION OF PRODUCTION TAX RATES; AMENDING SECTION 15-36-304, MCA; AND PROVIDING AN EFFECTIVE DATE 1312

302 *(Senate Bill No. 279; Hamlett)* REQUIRING AN ELECTION UNDER CERTAIN CIRCUMSTANCES IN THE EVENT OF A VACANCY IN THE UNITED STATES SENATE; MODIFYING CERTAIN TIMELINES AND DEADLINES CONCERNING THE ELECTION; ALLOWING THE GOVERNOR TO MAKE CERTAIN TEMPORARY APPOINTMENTS TO FILL VACANCIES AND PROVIDING REQUIREMENTS FOR THE APPOINTMENTS; REQUIRING THE GOVERNOR TO MAKE AN APPOINTMENT TO FILL CERTAIN VACANCIES IN THE LAST YEAR OF AN OFFICE'S TERM; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 13-25-203 AND 13-25-205, MCA; REPEALING SECTION 13-25-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1315

303 *(House Bill No. 29; Jacobson)* REVISING THE LICENSING AND REGULATION OF REAL ESTATE APPRAISERS; PROVIDING FOR THE REGULATION OF REAL ESTATE APPRAISER MENTORS; PROVIDING FINGERPRINT AND BACKGROUND CHECKS FOR ALL NEW APPLICANTS; REQUIRING CERTIFIED REAL ESTATE APPRAISERS TO MEET EXPERIENCE REQUIREMENTS SET BY THE BOARD; REQUIRING APPRAISAL MANAGEMENT COMPANIES TO ALLOW TRAINEES TO PROVIDE APPRAISAL ASSISTANCE TO APPRAISERS ON THE COMPANY'S APPRAISAL PANEL; REQUIRING APPRAISAL MANAGEMENT COMPANIES TO ALLOW AN APPRAISER ON THE COMPANY'S APPRAISAL PANEL TO TRANSFER AN APPRAISAL ASSIGNMENT TO A LICENSED EMPLOYEE OF THE APPRAISER; AND AMENDING SECTIONS 37-54-102, 37-54-105, 37-54-202, 37-54-302, 37-54-508, AND 37-54-518, MCA 1316

304 *(House Bill No. 78; Lynch)* PROVIDING PRIVACY, DISCLOSURE, AND OTHER CONSUMER PROTECTION REQUIREMENTS FOR MOTOR VEHICLE INSURANCE TELEMATICS AGREEMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN APPLICABILITY DATE 1321

305 *(House Bill No. 180; Smith)* EXTENDING THE TERMINATION DATE OF THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND; AND AMENDING SECTION 6, CHAPTER 495, LAWS OF 1999, SECTION 1, CHAPTER 70, LAWS OF 2001, SECTIONS 15 AND 16, CHAPTER 389, LAWS OF 2011, AND SECTIONS 8, 9, AND 10, CHAPTER 390, LAWS OF 2013 1325

306 *(House Bill No. 258; Williams)* CREATING THE MONTANA BENEFIT CORPORATION ACT; AUTHORIZING AND REGULATING THE FORMATION AND GOVERNANCE OF BENEFIT CORPORATIONS; ALLOWING AN EXISTING CORPORATION TO BECOME A BENEFIT CORPORATION; PROVIDING THAT A BENEFIT CORPORATION MAY BE FORMED FOR THE PURPOSE OF CREATING GENERAL PUBLIC BENEFIT OR SPECIFIC PUBLIC BENEFITS; REQUIRING DIRECTORS TO CONSIDER THE IMPACTS OF ANY ACTION OR PROPOSED ACTION ON SPECIFIED CONSTITUENCIES; REQUIRING THE BOARD OF DIRECTORS TO PREPARE A STATEMENT RELATING TO THE PUBLIC BENEFIT PURPOSES OF THE CORPORATION; REQUIRING THE BENEFIT CORPORATION TO ANNUALLY PREPARE AND DISSEMINATE A BENEFIT REPORT; DESCRIBING THE LIMITED FIDUCIARY DUTY AND LIABILITY OF A DIRECTOR OR OFFICER OF A BENEFIT CORPORATION; AND PROVIDING THAT THE DUTIES OF A DIRECTOR OR OFFICER AND THE PUBLIC BENEFIT PURPOSE OF A BENEFIT CORPORATION MAY BE ENFORCED ONLY IN A BENEFIT ENFORCEMENT PROCEEDING . 1326

307 *(House Bill No. 373; Staffanson)* INCREASING THE DEBT LIMIT FOR AN ELEMENTARY DISTRICT, A K-12 DISTRICT, OR A HIGH SCHOOL DISTRICT; AMENDING SECTIONS 20-9-406 AND 20-9-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1333

308 *(House Bill No. 379; Hertz)* REVISING CERTAIN PROVISIONS RELATED TO THE ADMINISTRATION OF TAXES; AMENDING PROVISIONS FOR THE WAIVER OF INTEREST; REVISING THE LATE FILING PENALTY; PROVIDING AN AUTOMATIC EXTENSION FOR THE FILING OF INDIVIDUAL INCOME TAXES; REVISING THE UNIFORM PENALTY ASSESSMENTS ON DELINQUENT TAXES; PROVIDING THAT INTEREST ASSESSMENTS ON DELINQUENT INCOME TAXES ARE BASED ONLY ON THE FEDERAL UNDERPAYMENT RATE ASSESSED AGAINST INDIVIDUAL INCOME TAXPAYERS; PROVIDING THAT THE PENALTIES FOR SUBSTANTIAL UNDERSTATEMENT OF A TAX OR FOR FILING A FRAUDULENT OR FRIVOLOUS RETURN OR REPORT ARE SIMILAR TO FEDERAL PENALTIES; CLARIFYING THE ALLOCATION OF A FEDERAL INCOME TAX REFUND; DECREASING THE STATUTES OF LIMITATION FOR INDIVIDUAL INCOME TAX FROM 5 YEARS TO 3 YEARS TO BE UNIFORM WITH OTHER TAX TYPES; AMENDING SECTIONS 15-1-206, 15-1-216, 15-30-2110, 15-30-2339, 15-30-2341, 15-30-2512, 15-30-2531, 15-30-2604, 15-30-2605, 15-30-2606, 15-30-2607, 15-30-2609, 15-30-2643, AND 15-30-3003, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION DATE 1336

309 *(House Bill No. 434; Lieser)* REVISING THE ASBESTOS CONTROL ACT; REQUIRING A 5-DAY REVIEW PERIOD FOR SMALL ASBESTOS PROJECTS; ESTABLISHING AN ASBESTOS ADVISORY GROUP TO ADVISE THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 75-2-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1351

310 *(House Bill No. 448; Wagoner)* ALLOWING A PERSON ALLEGING A DEPRIVATION OF RIGHTS WHO PREVAILS IN AN ACTION AGAINST THE STATE ENFORCING THE CONSTITUTIONAL RIGHT TO KNOW TO BE AWARDED COSTS AND REASONABLE ATTORNEY FEES; AMENDING SECTION 2-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE . . 1353

311 *(House Bill No. 470; Clark)* ALLOWING FEES PAID UNDER A GUARANTEED ASSET PROTECTION WAIVER TO BE INCLUDED IN

THE PRINCIPAL AMOUNT OF A CONSUMER LOAN; AMENDING SECTION 32-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1353

312 *(House Bill No. 491; Lavin)* GENERALLY REVISING THE 24/7 SOBRIETY AND DRUG MONITORING PROGRAM; CLARIFYING THE PURPOSE AND CORE COMPONENTS OF THE SOBRIETY PROGRAM; CLARIFYING ELIGIBILITY FOR PARTICIPATION IN THE SOBRIETY PROGRAM; AMENDING SECTIONS 44-4-1202, 44-4-1203, AND 44-4-1205, MCA; AND PROVIDING EFFECTIVE DATES 1355

313 *(House Bill No. 516; MacDonald)* REVISING LAWS RELATING TO POSTCONVICTION DNA TESTING; AUTHORIZING A COURT TO ORDER THE STATE TO PRODUCE OR ASSIST IN THE LOCATION OF CERTAIN EVIDENCE; AUTHORIZING A COURT TO ORDER THE PRODUCTION OF CERTAIN LABORATORY DOCUMENTS RELATING TO THE ANALYSIS OF EVIDENCE; REVISING POSTCONVICTION DNA PROCEEDINGS WHEN THE TESTS RESULTS ARE FAVORABLE TO THE PETITIONER AND OTHER CONDITIONS ARE SATISFIED; AUTHORIZING A COURT TO ORDER A DNA PROFILE TO BE SUBMITTED TO CERTAIN DNA DATABASES; AUTHORIZING VICTIM SERVICES IN CERTAIN CASES; AMENDING SECTION 46-21-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1359

314 *(House Bill No. 523; Berglee)* ALLOWING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE TRANSFER OF OWNERSHIP OF IMPROVEMENTS IN A RURAL IMPROVEMENT DISTRICT UPON RECEIPT OF A PETITION; REQUIRING THE PETITION TO INCLUDE CERTAIN INFORMATION; REQUIRING NOTICE OF A PUBLIC HEARING ON THE PROPOSED TRANSFER; REQUIRING THAT ALL RESPONSIBILITY FOR THE OPERATION AND MAINTENANCE OF THE IMPROVEMENTS AND ALL DEBT AND ASSETS OF THE DISTRICT BE TRANSFERRED IF THE TRANSFER IS APPROVED; AND AMENDING SECTION 7-8-2211, MCA. 1362

315 *(House Bill No. 538; Miller)* ALLOWING A MONTANA EMPLOYER TO OBTAIN WORKERS' COMPENSATION COVERAGE FROM NORTH DAKOTA UNDER CERTAIN CONDITIONS FOR ITS MONTANA WORKERS SOLELY WORKING IN NORTH DAKOTA; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE 1363

316 *(House Bill No. 542; Hertz)* EXPANDING THE DUTIES OF THE TOURISM ADVISORY COUNCIL TO INCLUDE PROMOTION OF REGIONAL HISTORY MUSEUMS; AMENDING SECTION 2-15-1816, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1367

317 *(House Bill No. 550; Swanson)* REVISING AND UPDATING LAWS RELATED TO CREDIT UNIONS; REQUIRING A SUPERVISORY COMMITTEE; DEFINING TYPES OF "SHARES"; CLARIFYING MERGER REQUIREMENTS; ALLOWING CREDIT UNIONS TO HOLD FUNDS FOR HEALTH SAVINGS ACCOUNTS OR MEDICAL CARE SAVINGS ACCOUNTS; ALLOWING INVESTMENTS IN CERTAIN INSTRUMENTS AND DEPOSITS; PROVIDING A TIMEFRAME FOR FILLING VACANCIES ON BOARDS OF DIRECTORS AND REVISING OTHER TIMEFRAMES FOR CONSISTENCY; ALLOWING EMPLOYEES FAVORABLE LOAN RATES; REVISING ACCOUNT VERIFICATION REQUIREMENTS; EXPANDING RULEMAKING AUTHORITY; AMENDING SECTIONS 32-3-102, 32-3-301, 32-3-321, 32-3-322, 32-3-401, 32-3-403, 32-3-405, 32-3-406, 32-3-416, 32-3-417, 32-3-418, 32-3-608, AND 32-3-701, MCA; AND REPEALING SECTIONS 32-3-413, 32-3-414, 32-3-415, AND 32-3-601, MCA. 1368

318 *(House Bill No. 554; Pierson)* REVISING LAWS APPLYING TO SECURITIES MULTILEVEL MARKETING COMPANIES; CREATING REQUIREMENTS FOR NOTICE OF ACTIVITY AND CONSENT TO SERVICE TO BE SUBMITTED TO THE SECURITIES COMMISSIONER; REVISING DEFINITIONS; AMENDING SECTIONS 30-10-301, 30-10-303, AND 30-10-324, MCA; AND REPEALING SECTION 30-10-216, MCA. 1377

319 *(Senate Bill No. 112; Ankney)* REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PRIORITIZE DEVELOPMENT OF A TOTAL MAXIMUM DAILY LOAD (TMDL) WHEN A COMPLETE TMDL IS REQUIRED FOR ISSUANCE OF A PERMIT TO DISCHARGE INTO STATE WATERS; SETTING DEADLINES FOR TMDL COMPLETION; ALLOWING AN APPLICANT TO PROVIDE FUNDING FOR TMDL DEVELOPMENT UNDER CERTAIN CIRCUMSTANCES; ALLOWING FOR A HEARING BEFORE THE BOARD OF ENVIRONMENTAL REVIEW; REQUIRING TMDL DEVELOPMENT FOR EXISTING APPLICATIONS TO DISCHARGE INTO STATE WATERS THAT REQUIRE A COMPLETE TMDL; AMENDING SECTION 75-5-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1381

320 *(Senate Bill No. 123; Tutvedt)* REVISING THE REGULATORY AUTHORITY OVER MONTANA STATE FUND TO PROVIDE REGULATORY AND COMPLAINT PROCESSES UNDER THE INSURANCE COMMISSIONER THAT GENERALLY ARE APPLICABLE TO PRIVATE WORKERS' COMPENSATION INSURERS; PREVENTING THE INSURANCE COMMISSIONER FROM DISSOLVING OR SUSPENDING THE LICENSE OF STATE FUND; SUBJECTING THE RATEMAKING AUTHORITY OF THE STATE FUND'S BOARD OF DIRECTORS TO THE SAME REVIEW BY THE INSURANCE COMMISSIONER AS EXPERIENCED BY PRIVATE-SECTOR INSURERS; REVISING THE BUDGETING AND FINANCIAL REPORTING FUNCTIONS OF THE STATE FUND TO A CALENDAR YEAR BASIS; PROVIDING AN ENHANCED RISK-BASED CAPITAL MECHANISM TO ALERT THE INSURANCE COMMISSIONER TO POTENTIAL STATE FUND FINANCIAL INSTABILITY; PROVIDING REHABILITATION AUTHORITY TO THE INSURANCE COMMISSIONER FOR STATE FUND; REVISING REFERENCE TO EXCESSIVE RATES AS RELATED TO MARKET COMPETITION; REMOVING RATE REVIEW FROM THE LEGISLATIVE AUDITOR'S DUTIES; REMOVING BUDGETARY REVIEW FROM THE LEGISLATIVE FISCAL ANALYST'S DUTIES; PROVIDING FOR A TRANSITION; AMENDING SECTIONS 2-4-101, 17-1-102, 17-2-110, 33-1-102, 33-2-1902, 33-16-303, 33-16-1002, 33-16-1008, 33-16-1021, 33-16-1033, 33-16-1035, 39-71-2312, 39-71-2315, 39-71-2316, 39-71-2323, 39-71-2330, 39-71-2332, 39-71-2351, 39-71-2361, AND 39-71-2363, MCA; REPEALING SECTIONS 33-16-1024, 39-71-2314, AND 39-71-2362, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE 1385

321 *(Senate Bill No. 176; Pomnichowski)* DESIGNATING THE SCOBEY SOIL SERIES AS MONTANA'S OFFICIAL STATE SOIL 1402

322 *(Senate Bill No. 191; Driscoll)* PROVIDING AN EXCEPTION FROM THE MONTANA PROCUREMENT ACT FOR CONTRACTS CONCERNING CAPITAL IMPROVEMENTS AT STATE PARKS, STATE RECREATIONAL AREAS, STATE MONUMENTS, AND STATE HISTORIC SITES; AMENDING SECTIONS 18-4-313 AND 23-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1403

323 *(Senate Bill No. 213; Thomas)* RELATING TO MONTANA SCHOOL SAFETY; ALLOWING SCHOOL DISTRICTS TEMPORARY AUTHORITY TO TRANSFER FUNDS INTO THE BUILDING RESERVE FUND FOR SCHOOL SAFETY AND SECURITY IMPROVEMENTS; AMENDING SECTION 20-1-401, MCA; AMENDING SECTIONS 9 AND 12, CHAPTER 364, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1405

324 *(Senate Bill No. 216; Webb)* ESTABLISHING FRAUD PREVENTION TRAINING AND FISCAL ACCOUNTABILITY REQUIREMENTS FOR CERTAIN MEDICAID IN-HOME CARE SERVICES; REQUIRING TRAINING AND EDUCATION IN FRAUD PREVENTION; REQUIRING REPORTING OF COST INFORMATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 53-6-402, MCA 1406

325 *(Senate Bill No. 229; Tutvedt)* EXTENDING THE DATE BY WHICH A PERSON OR COUNTY MAY APPLY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR A HISTORIC RIGHT-OF-WAY DEED AND EXTENDING THE TERMINATION DATE; AMENDING SECTION 77-1-130, MCA; AMENDING SECTIONS 2, 3, 4, 5, 6, AND 7, CHAPTER 325, LAWS OF 2011; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1412

326 *(Senate Bill No. 230; Vincent)* PROVIDING A PUBLIC SCOPING PROCESS FOR CERTAIN LAND ACQUISITIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND AMENDING SECTION 87-1-218, MCA 1414

327 *(Senate Bill No. 232; Moore)* REVISING STREAM ACCESS LAWS ONLY TO REFLECT THE MAJORITY OPINION OF THE SUPREME COURT IN THE 1987 GALT DECISION; AMENDING SECTIONS 23-2-302 AND 23-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1415

328 *(Senate Bill No. 318; Swandal)* REVISING LAWS RELATED TO NO CONTACT ORDERS; PROVIDING THAT A NO CONTACT ORDER MAY BE ISSUED FOR AGGRAVATED ASSAULT OR ASSAULT WITH A WEAPON COMMITTED AGAINST A PARTNER OR FAMILY MEMBER; PROVIDING THAT A PERSON MAY NOT BE RELEASED ON BAIL WITHOUT APPEARING BEFORE A JUDGE WHEN THE PERSON IS CHARGED WITH VIOLATING A NO CONTACT ORDER; AND AMENDING SECTIONS 45-5-209, 46-6-311, AND 46-9-302, MCA 1418

329 *(Senate Bill No. 335; Tutvedt)* REVISING THE COMPENSATION FOR COUNTY TAX APPEAL BOARD MEMBERS; AND AMENDING SECTIONS 15-2-201 AND 15-15-101, MCA 1421

330 *(Senate Bill No. 347; Facey)* REVISING WORKERS' COMPENSATION COVERAGE OPTIONS FOR VOLUNTEER EMERGENCY MEDICAL TECHNICIANS, NONTRANSPORTING MEDICAL UNITS, AND CERTAIN AMBULANCE SERVICES; AMENDING SECTION 39-71-118, MCA; AND PROVIDING AN EFFECTIVE DATE 1422

331 *(Senate Bill No. 356; Fielder)* REVISING LAWS RELATED TO LAW ENFORCEMENT; AND PROVIDING THAT THE CURRICULUM FOR THE MONTANA LAW ENFORCEMENT ACADEMY MUST INCLUDE INSTRUCTION ON THE CONSTITUTIONAL RIGHTS OF CITIZENS . 1427

332 *(Senate Bill No. 368; Rosendale)* REQUIRING THAT CERTAIN PIPELINE INFORMATION BE COLLECTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND MADE AVAILABLE ON A WEBSITE; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PROVIDE A LINK TO THE INFORMATION; AND PROVIDING AN EFFECTIVE DATE. 1428

333 *(Senate Bill No. 379; Vance)* REVISING LAWS TO REQUIRE THE STATE FUND TO SUBMIT A REPORT ON ITS BUDGET TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; AMENDING SECTION 5-5-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1428

334 *(Senate Bill No. 47; Pomnichowski)* INCREASING ASSESSMENTS FOR FIRE PROTECTION ON OWNERS OF CLASSIFIED FOREST LAND; AMENDING SECTION 76-13-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1429

335 *(Senate Bill No. 52; Cohenour)* GENERALLY REVISING CAPTIVE INSURANCE LAWS; PROVIDING A PENALTY FOR FAILURE TO FILE ANNUAL STATEMENTS; CLARIFYING LANGUAGE REGARDING CERTIFICATES OF AUTHORITY FOR CAPTIVE INSURERS; ALLOWING FOR A PRO RATA DISTRIBUTION OF TAXES IN THE YEAR OF CLOSURE; CLARIFYING TAXATION OF SERIES MEMBERS OF SPECIAL PURPOSE CAPTIVES; AMENDING SECTIONS 33-28-101, 33-28-102, 33-28-104, 33-28-105, 33-28-108, 33-28-109, 33-28-201, 33-28-206, 33-28-207, 33-28-301, AND 33-28-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1430

336 *(Senate Bill No. 54; Barrett)* REVISING THE REALTY TRANSFER ACT; PROVIDING TAXPAYERS WITH ADDITIONAL ACCESS TO CONFIDENTIAL SALES PRICE INFORMATION; AMENDING SECTIONS 15-7-102 AND 15-7-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1445

337 *(Senate Bill No. 66; Sands)* REVISING THE YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT; REVISING THE DEFINITION OF "TOBACCO PRODUCT"; AMENDING SECTIONS 16-11-122, 16-11-302, 16-11-303, 16-11-304, 16-11-305, 16-11-306, 16-11-308, 16-11-309, 16-11-310, AND 45-5-637, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE 1448

338 *(Senate Bill No. 91; Thomas)* REVISING LAWS RELATED TO RECIPROCAL TAX COLLECTION; CLARIFYING THE PRIORITY OF RECIPROCAL COLLECTIONS OF STATE AGENCY AND LOCAL GOVERNMENT DEBTS BETWEEN THE INTERNAL REVENUE SERVICE AND THE DEPARTMENT OF REVENUE; ALLOWING FOR RECIPROCAL COLLECTION AND OFFSET OF TAX LIABILITY BETWEEN THE STATE AND FEDERAL GOVERNMENT; AMENDING SECTIONS 15-1-201, 15-1-218, AND 17-4-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1453

339 *(Senate Bill No. 102; Ankney)* REVISING AIR QUALITY FEES; ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COLLECT AND USE REGISTRATION FEES FOR THE ADMINISTRATION OF AIR QUALITY PERMITTING AND REGISTRATION; ALLOWING LOCAL AIR QUALITY PROGRAMS TO COLLECT AND USE REGISTRATION FEES FOR THE ADMINISTRATION OF LOCAL AIR QUALITY PERMITTING AND REGISTRATION; AND AMENDING SECTIONS 75-2-220, 75-2-221, AND 75-2-301, MCA 1456

340 *(Senate Bill No. 169; Hamlett)* REQUIRING AN ELECTION UNDER CERTAIN CIRCUMSTANCES IN THE EVENT OF A VACANCY IN THE UNITED STATES SENATE; MODIFYING CERTAIN TIMELINES TO DETERMINE WHEN A SPECIAL ELECTION WILL BE HELD CONCURRENTLY WITH ANOTHER ELECTION; ALLOWING THE GOVERNOR TO MAKE CERTAIN TEMPORARY APPOINTMENTS TO FILL VACANCIES; REQUIRING THE GOVERNOR TO MAKE AN APPOINTMENT TO FILL A CERTAIN VACANCY IN THE LAST YEAR

OF AN OFFICE'S TERM; REQUIRING A TEMPORARY APPOINTEE BE FROM THE SAME POLITICAL PARTY AS THE VACATING OFFICEHOLDER; MODIFYING THE DEADLINE FOR A PARTY NOMINATION OR THE SUBMITTAL OF NOMINATING PETITIONS; AMENDING SECTIONS 13-25-203 AND 13-25-205, MCA; REPEALING SECTION 13-25-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1462

341 *(Senate Bill No. 181; Arntzen)* REQUIRING THE CONSENT OF THE SENATE FOR APPOINTMENTS TO THE BOARD OF OUTFITTERS; AMENDING SECTION 2-15-1773, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE . . 1464

342 *(Senate Bill No. 192; Driscoll)* AMENDING HEALTH INSURANCE LAWS TO EXPAND FREEDOM OF CHOICE TO ADDITIONAL PRACTITIONERS; AMENDING SECTION 33-22-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1464

343 *(Senate Bill No. 224; Wolken)* CREATING A COMMISSION ON SENTENCING TO STUDY SENTENCING PRACTICES AND POLICIES; PROVIDING FOR THE SUBMISSION OF RECOMMENDATIONS TO THE LEGISLATURE BY THE COMMISSION; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE. 1465

344 *(Senate Bill No. 249; Cohenour)* GENERALLY REVISING ENERGY PERFORMANCE CONTRACTS; ESTABLISHING CRITERIA FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO USE IN THE ADMINISTRATION OF AN ENERGY PERFORMANCE CONTRACT PROGRAM; ESTABLISHING CRITERIA FOR QUALIFIED ENERGY SERVICE PROVIDERS; PROVIDING FOR INVESTMENT-GRADE ENERGY AUDITS; ESTABLISHING CRITERIA FOR GOVERNMENTAL ENTITIES TO USE IN THE ADMINISTRATION AND FUNDING OF ENERGY PERFORMANCE CONTRACTS; GRANTING RULEMAKING AUTHORITY; EXEMPTING ENERGY PERFORMANCE CONTRACTS FROM CERTAIN CONSOLIDATED CITY-COUNTY GOVERNMENT AND SPECIAL DISTRICT CONTRACT REQUIREMENTS; AMENDING SECTIONS 20-9-471, 90-4-1101, 90-4-1102, 90-4-1103, AND 90-4-1109, MCA; REPEALING SECTIONS 90-4-1104, 90-4-1105, 90-4-1106, 90-4-1107, AND 90-4-1108, MCA; AND PROVIDING AN APPLICABILITY DATE 1467

345 *(Senate Bill No. 298; Fielder)* REQUIRING THE ATTORNEY GENERAL TO PURSUE REIMBURSEMENT OF MONEY OWED TO MONTANA PURSUANT TO THE ENABLING ACT; DEPOSITING RECOVERED FUNDS IN THE PERMANENT FUND FOR THE SUPPORT OF COMMON SCHOOLS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1475

346 *(Senate Bill No. 350; Smith)* AUTHORIZING OR REQUIRING ACTION BY THE COMMISSIONER OF INSURANCE WHEN AN INSURANCE NAVIGATOR OR AN APPLICANT TO BECOME AN INSURANCE NAVIGATOR COMMITS CERTAIN ACTS; EXPANDING ACTIONS THAT AN INSURANCE NAVIGATOR MAY NOT ENGAGE IN; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-17-220 AND 33-17-241, MCA. 1475

347 *(Senate Bill No. 367; Taylor)* CLARIFYING THE DISTRIBUTIONS AND AMOUNTS TO BE TRANSFERRED FROM THE STATE GENERAL FUND TO THE RESEARCH AND COMMERCIALIZATION STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 7-14-112,

10-2-112, 10-2-603, 10-3-801, 15-1-122, AND 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE 1477

348 *(House Bill No. 123; Jones)* GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS TO PUBLIC INFORMATION; PROVIDING SAFETY AND SECURITY EXCEPTIONS; PROVIDING A PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS; REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE; EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614, 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126, 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108, 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101, 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201, 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301, 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND 2-6-504, MCA 1484

349 *(House Bill No. 145; Cuffe)* CREATING A LIVESTOCK LOSS REDUCTION RESTRICTED ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-3110, 15-1-122, 81-1-110, AND 81-1-112, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE 1520

350 *(House Bill No. 356; Jones)* REVISING FUNDING FOR CAREER AND VOCATIONAL/TECHNICAL EDUCATION; ESTABLISHING REQUIREMENTS RELATED TO INCREASES IN STATE FUNDING; INCREASING DISTRIBUTIONS TO DISTRICTS FOR CAREER AND VOCATIONAL/TECHNICAL EDUCATION FOR THE 2017 BIENNIUM; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-7-306, MCA; AND PROVIDING AN EFFECTIVE DATE 1524

351 *(House Bill No. 374; McClafferty)* REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO DEVELOP SUICIDE AWARENESS AND PREVENTION TRAINING MATERIALS FOR SCHOOL DISTRICT EMPLOYEES; RECOMMENDING AT LEAST 2 HOURS OF TRAINING EVERY 5 YEARS; AND PROVIDING AN EFFECTIVE DATE 1525

352 *(House Bill No. 421; Berry)* REVISING THE COAL SEVERANCE TAX COAL WASHING CREDIT; EXTENDING THE TERMINATION DATE OF THE COAL WASHING CREDIT BY 8 YEARS; AMENDING SECTION 7, CHAPTER 433, LAWS OF 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1526

353 *(House Bill No. 430; Fitzpatrick)* PROVIDING FOR AN INTERIM JUDICIAL REDISTRICTING COMMISSION; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1526

354 *(House Bill No. 472; Jacobson)* REVISING LAWS RELATING TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PERMANENTLY ESTABLISHING THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PROVIDING POWERS, DUTIES, AND INVESTIGATIVE PROCEDURES OF THE OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE THE OMBUDSMAN WITH CERTAIN REPORTS; PROVIDING PRIVILEGE; TRANSFERRING APPROPRIATION AUTHORITY; AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE 1527

355 *(House Bill No. 483; Lieser)* RAISING THE PENSION BENEFIT AVAILABLE TO AN ELIGIBLE MEMBER UNDER THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; AMENDING SECTION 19-17-404, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE . 1533

356 *(House Bill No. 504; Hayman)* REVISING LAWS GOVERNING RURAL FIRE DISTRICTS AND FIRE SERVICE AREAS; ALLOWING FOR CONSOLIDATION OF RURAL FIRE DISTRICTS AND FIRE SERVICE AREAS TO CREATE A NEW RURAL FIRE DISTRICT; REQUIRING A PLAN OF CONSOLIDATION TO STATE IF THERE WILL BE MUTUAL ASSUMPTION OF INDEBTEDNESS; CLARIFYING MILL LEVY AUTHORITY; PROHIBITING CONSOLIDATION IF THE GOVERNING BOARDS DO NOT AGREE ON ASSUMPTION OF INDEBTEDNESS; AMENDING SECTIONS 7-33-2120 AND 7-33-2401, MCA; AND PROVIDING AN EFFECTIVE DATE. 1534

357 *(Senate Bill No. 7; Webb)* REVISING THE PRESCRIPTION DRUG REGISTRY FEE; INCREASING THE FEE; EXTENDING THE TERMINATION DATE; AMENDING SECTION 37-7-1511, MCA; AMENDING SECTION 20, CHAPTER 241, LAWS OF 2011; AND PROVIDING AN EFFECTIVE DATE. 1536

358 *(Senate Bill No. 93; Connell)* CREATING A RESTRICTED-USE DRIVING PERMIT; ALLOWING A PERSON WHO MAY NOT BE ISSUED A DRIVER'S LICENSE UNDER THE INTERSTATE DRIVER LICENSE COMPACT TO PETITION A DISTRICT COURT FOR A RESTRICTED-USE DRIVING PERMIT; PROVIDING ELIGIBILITY REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-5-105 AND 61-5-212, MCA; AND PROVIDING AN EFFECTIVE DATE 1537

359 *(Senate Bill No. 128; Hansen)* ESTABLISHING A SCHOOL FUNDING INTERIM COMMISSION; PROVIDING THAT THE COMMISSION BE FORMED AT LEAST ONCE EVERY 10 YEARS; REQUIRING THE COMMISSION TO CONDUCT A STUDY OF THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR COMMISSION MEMBERSHIP AND STAFFING; REQUIRING ISSUANCE OF A REPORT; AMENDING SECTION 20-9-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1540

360 *(Senate Bill No. 136; Hamlett)* LIMITING THE COLLECTION OF FEES FOR THE GENERATION OF REMEDIATION WASTE; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 1543

361 *(Senate Bill No. 157; Tutvedt)* GENERALLY REVISING PROPERTY TAX LAWS; REVISING THE PROPERTY REAPPRAISAL PROCESS AND THE TAXATION OF PROPERTY; PROVIDING FOR A 2-YEAR REAPPRAISAL CYCLE FOR CLASS THREE AGRICULTURAL LAND AND CLASS FOUR RESIDENTIAL AND COMMERCIAL PROPERTY; REVISING PROPERTY TAX ASSISTANCE PROGRAMS, INCLUDING FOR DISABLED VETERANS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-122, 5-2-301, 15-1-101, 15-2-301,15-6-133, 15-6-134, 15-6-138, 15-6-143, 15-7-102, 15-7-103, 15-7-111, 15-7-112, 15-7-131, 15-7-139, 15-7-201, 15-8-111, 15-10-420, 15-15-102, 15-15-103, 15-16-101, 15-16-102, 15-24-3202, 15-24-3203, 15-44-103, AND 77-1-208, MCA; REPEALING SECTIONS 15-6-193, 15-6-211, 15-6-222, 15-24-2101, 15-24-2102, AND 15-24-2103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 1546

362 *(Senate Bill No. 193; Tutvedt)* GENERALLY REVISING LIQUOR LAWS; AMENDING LAWS RELATED TO AGENCY LIQUOR STORE COMMISSIONS BY SPECIFYING COMMISSION RATES BASED ON SALES; DESIGNATING THE STATE MARKUP RELATING TO RETAIL SELLING PRICE; AMENDING SECTIONS 16-1-404 AND 16-2-101, MCA; AND PROVIDING EFFECTIVE DATES 1580

363 *(Senate Bill No. 195; Caferro)* APPLYING THE EMPLOYMENT PROTECTIONS FOR MEMBERS OF MONTANA'S NATIONAL GUARD TO MEMBERS OF THE NATIONAL GUARD IN ANOTHER STATE WHO ARE EMPLOYED IN MONTANA; AMENDING SECTIONS 10-1-1002, 10-1-1003, 10-1-1005, 10-1-1007, AND 10-1-1009, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1585

364 *(Senate Bill No. 258; Hoven)* REVISING THE DEFINITION OF "EMPLOYER" WITH REGARD TO CERTAIN RELIGIOUS ORGANIZATIONS IN WORKERS' COMPENSATION INSURANCE LAWS; AND AMENDING SECTIONS 39-71-117 AND 39-71-118, MCA . 1589

365 *(Senate Bill No. 259; Tutvedt)* REVISING THE FUNDING FOR CERTAIN ADMINISTRATIVE FUNCTIONS OF THE DEPARTMENT OF LABOR AND INDUSTRY RELATED TO WORKERS' COMPENSATION AND OCCUPATIONAL SAFETY AND HEALTH LAWS; INCREASING A PERCENTAGE THAT MAY BE ASSESSED AGAINST WORKERS' COMPENSATION INSURERS FOR ADMINISTRATION OF THE WORKERS' COMPENSATION ACT; CREATING A NEW ASSESSMENT FOR ADMINISTERING OCCUPATIONAL SAFETY AND HEALTH LAWS; PROVIDING FOR A PROCEDURAL TRANSITION; AMENDING SECTIONS 39-71-201, 39-71-435, 39-71-1050, 50-71-113, 50-71-119, 50-72-106, AND 50-73-107, MCA; AND PROVIDING EFFECTIVE DATES 1595

366 *(Senate Bill No. 308; Fielder)* PROVIDING A PROPERTY TAX EXEMPTION FOR CERTAIN PROPERTY LEASED TO A COUNTY, MUNICIPALITY, OR TAXING UNIT FOR PUBLIC PURPOSES; REQUIRING THAT THE PROPERTY BE USED FOR PUBLIC PARK, RECREATION, OR BEAUTIFICATION PURPOSES; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE . . 1605

367 *(Senate Bill No. 364; Cohenour)* NAMING THE MONTANA HERITAGE CENTER AFTER BETTY BABCOCK AND REQUIRING A PLAQUE COMMEMORATING HER TO BE DISPLAYED AT THE CENTER; AND AMENDING SECTION 2-17-807, MCA. 1609

368 *(Senate Bill No. 405; Buttrey)* CREATING THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT TO EXPAND HEALTH CARE COVERAGE TO ADDITIONAL INDIVIDUALS, IMPROVE ACCESS TO HEALTH CARE SERVICES, AND CONTROL HEALTH CARE COSTS; ESTABLISHING A HEALTH CARE COVERAGE PROGRAM TO PROVIDE CERTAIN LOW-INCOME MONTANANS WITH ACCESS TO HEALTH CARE SERVICES USING MEDICAID FUNDS AND AN ARRANGEMENT WITH A THIRD-PARTY ADMINISTRATOR; IMPLEMENTING CERTAIN MEDICAID REFORMS; PROVIDING STATUTORY APPROPRIATIONS FOR COSTS OF PROVIDING HEALTH CARE SERVICES; PROVIDING SUPPORT FOR HEALTH CARE DELIVERY ACROSS MONTANA; PROVIDING WORKFORCE DEVELOPMENT OPPORTUNITIES FOR PROGRAM PARTICIPANTS; ESTABLISHING TIME LIMITS FOR SERVICE OF PROCESS IN MEDICAL MALPRACTICE CLAIMS; ESTABLISHING AN OVERSIGHT COMMITTEE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502 AND 27-2-205, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE 1610

369 *(House Bill No. 118; Bennett)* REGULATING DELIVERY BY ELECTRONIC MEANS OF INSURANCE NOTICES OR DOCUMENTS; CLARIFYING THE VALIDITY OF AN ELECTRONIC REPRESENTATION OF AN INSURANCE CARD AS PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 61-6-302, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE. . . 1624

370 *(House Bill No. 119; Berry)* GENERALLY REVISING INSURANCE LAWS; IMPLEMENTING ACCREDITATION STANDARDS AND MODEL ACTS DEVELOPED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING STANDARDS FOR RISK MANAGEMENT AND RETENTION, VALUATION, ENTERPRISE RISK STANDARDS FOR HOLDING COMPANY SYSTEMS, AND CERTAIN NONFORFEITURE PROVISIONS; CREATING GUIDELINES AND RELATED REQUIREMENTS FOR AN INSURER'S SELF-ASSESSMENT OF RISK AND SOLVENCY; ADOPTING PRINCIPLE-BASED VALUATION; ADOPTING A VALUATION MANUAL FOR RESERVES; APPLYING ACTUARIAL STANDARDS TO RESERVE REPORTING; APPLYING THE VALUATION MANUAL TO ACCIDENT AND HEALTH PLANS; PROVIDING FOR ENTERPRISE RISK REPORTING; GRANTING THE COMMISSIONER OF INSURANCE APPROVAL AUTHORITY OVER DIVESTITURES; ALLOWING FOR DISCLAIMERS OF AFFILIATION; EXTENDING CONFIDENTIALITY FOR VARIOUS REPORTS FILED WITH THE COMMISSIONER; EXPANDING PENALTIES FOR WITHHOLDING OF CERTAIN INFORMATION; CLARIFYING CREDIT FOR CEDING INSURERS OR REINSURERS; REVISING TERMS FOR RISK RETENTION GROUPS, INCLUDING CLARIFICATION OF INDEPENDENT DIRECTORS AND MATERIAL RELATIONSHIPS; EXPANDING NONFORFEITURE VALUATION OPTIONS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-2-521, 33-2-523, 33-2-525, 33-2-526, 33-2-527, 33-2-537, 33-2-1101, 33-2-1104, 33-2-1105, 33-2-1106, 33-2-1111, 33-2-1112, 33-2-1113, 33-2-1115, 33-2-1116, 33-2-1120, 33-2-1216, 33-2-1217, 33-2-1501, 33-11-103, 33-20-203, 33-20-208, AND 33-31-204, MCA; AND

PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 1627

371 *(House Bill No. 244; Essmann)* PROVIDING FOR AN APPROPRIATION FOR POTENTIAL LITIGATION TO IMPROVE AND PROTECT THE STATE'S ACCESS TO AND GROWTH IN DOMESTIC AND INTERNATIONAL MARKETS AND OTHER LITIGATION; PLACING CONDITIONS ON THE APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE 1679

372 *(House Bill No. 389; Essmann)* REQUIRING PERIODIC REAPPLICATION BY AN OWNER OF CERTAIN TAX-EXEMPT REAL PROPERTY FOR THE PURPOSE OF MAINTAINING AN EXEMPTION FROM PROPERTY TAXES; REQUIRING A PUBLIC LISTING OF CERTAIN PROPERTY THAT IS EXEMPT FROM TAXATION; ESTABLISHING A DUTY FOR AN OWNER OF TAX-EXEMPT PROPERTY TO REPORT A CHANGE IN USE; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH A FEE TO OFFSET REVIEW COSTS; WAIVING THE FEE FOR CERTAIN NONPROFIT ORGANIZATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-16-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE 1679

373 *(House Bill No. 468; Pierson)* REVISING LAWS RELATING TO THE MAXIMUM PERIOD OF COMMITMENT OR IMPOSITION OF A COMMUNITY TREATMENT PLAN FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; AND AMENDING SECTION 53-20-126, MCA 1682

374 *(House Bill No. 486; Cook)* REVISING THE DEFINITION OF "BICYCLE" BY REMOVING THE REFERENCES TO A MOPED; DEFINING "MOPED" AND ADDING REFERENCES TO EXISTING APPLICABLE LAWS; AND AMENDING SECTIONS 15-6-219, 33-23-204, 61-1-101, 61-8-102, 61-8-601, 61-8-602, 61-8-603, 61-8-604, 61-8-605, 61-8-606, 61-8-607, 61-8-608, 61-8-609, AND 61-12-101, MCA 1682

375 *(House Bill No. 506; Moore)* REVISING DISTILLERY LAWS TO ALLOW A DISTILLERY TO SELL ITS PRODUCT DIRECTLY TO AN AGENCY LIQUOR STORE; AMENDING SECTION 16-4-311, MCA; AND PROVIDING DELAYED EFFECTIVE DATES. 1700

376 *(House Bill No. 612; Dudik)* ESTABLISHING A CHILD ABUSE COURT DIVERSION PILOT PROJECT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-1-702 AND 41-3-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1701

377 *(Senate Bill No. 234; Thomas)* AMENDING PREMIUM TAX RATES AND FILING FEES FOR CASUALTY INSURERS OFFERING POLICIES OF LEGAL PROFESSIONAL LIABILITY INSURANCE; AMENDING SECTIONS 33-2-705, 33-2-708, AND 33-27-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 1704

378 *(Senate Bill No. 325; Keane)* REVISING THE BOARD OF ENVIRONMENTAL REVIEW PROCESS FOR ADOPTING WATER QUALITY REGULATIONS MORE STRINGENT THAN FEDERAL REGULATIONS; REVISING IMPLEMENTATION OF WATER QUALITY STANDARDS THAT ARE PURER THAN A NATURAL CONDITION OF A WATERCOURSE OR WATER SOURCE; REVISING THE PROCESS FOR RECLASSIFYING WATER QUALITY STANDARDS; REVISING THE PROCESS FOR ADOPTING SITE-SPECIFIC WATER QUALITY

STANDARDS; PROVIDING A DEFINITION; AMENDING SECTION 75-5-203, MCA; AND REPEALING SECTION 75-5-309, MCA 1708

379 *(Senate Bill No. 345; Arntzen)* REVISING THE PROCESS OF ADOPTION OR AMENDMENT OF ACCREDITATION STANDARDS FOR SCHOOLS; MAKING REQUIREMENTS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION; CLARIFYING THE ROLE OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE; AMENDING SECTIONS 20-3-106 AND 20-7-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1709

380 *(House Bill No. 223; Clark)* REVISING DEATH CERTIFICATE FEES AND PROVIDING FOR THEIR USE AS A FUNDING SOURCE FOR THE BOARD OF FUNERAL SERVICE; REQUIRING THE BOARD TO REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; AMENDING SECTIONS 7-4-2631 AND 50-15-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1712

381 *(House Bill No. 517; Essmann)* REVISING LAWS RELATING TO GUARDIANSHIP; REVISING LAWS RELATING TO THE COMMITMENT OF INCAPACITATED PERSONS; PROVIDING ADMISSION ALTERNATIVES FOR INCAPACITATED PERSONS WITH CERTAIN CONDITIONS; AMENDING SECTIONS 72-5-321 AND 72-5-324, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE . . 1715

382 *(House Bill No. 577; Holmlund)* REVISING PROVISIONS RELATED TO RACE MEET GAMBLING; DEFINING THE TERM "MONTANA WAGER" WITH RESPECT TO PARIMUTUEL BETTING ON RACE MEETS; SPECIFYING THAT ACCEPTING A MONTANA WAGER WITHOUT A MONTANA LICENSE IS UNLAWFUL AND PUNISHABLE AS AN ILLEGAL GAMBLING ENTERPRISE; AND AMENDING SECTIONS 23-4-101 AND 23-4-301, MCA 1717

383 *(House Bill No. 590; Cuffe)* PROVIDING A MEANS TO COMPENSATE FOR THE STORAGE OF WATER BEHIND LIBBY DAM, WHICH WAS CREATED THROUGH THE COLUMBIA RIVER TREATY; CREATING THE COLUMBIA RIVER TREATY ACCOUNT; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER THE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING FOR A TRANSFER TO THE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE. 1720

384 *(House Bill No. 604; Greef)* REQUIRING COLLECTION OF INFORMATION AND REPORTING BY THE DEPARTMENT OF TRANSPORTATION ON TRAILS AND PATHS CREATED UNDER THE MONTANA FOOTPATH AND BICYCLE TRAIL ACT OF 1975; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1723

385 *(House Bill No. 617; Lavin)* ESTABLISHING THE MONTANA STEM SCHOLARSHIP PROGRAM; PROVIDING ELIGIBILITY REQUIREMENTS; CREATING THE MONTANA STEM SCHOLARSHIP PROGRAM STATE SPECIAL REVENUE ACCOUNT; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-26-601, 20-26-602, 20-26-603, 20-26-605, 20-26-606, 23-7-102, 23-7-202, AND 23-7-402, MCA; AND PROVIDING AN EFFECTIVE DATE. 1723

386 *(House Bill No. 627; Brodehl)* CREATING AN INTERIM TASK FORCE TO STUDY THE OPERATIONS OF THE OFFICE OF STATE PUBLIC DEFENDER TO DEVELOP A LONG-TERM ORGANIZATIONAL PLAN THAT WILL ALLOW THE OPD TO PROVIDE EFFECTIVE ASSISTANCE

OF COUNSEL TO THOSE THAT QUALIFY; SPECIFYING MEMBERS AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE 1731

387 *(Senate Bill No. 20; Vincent)* REALLOCATING A PORTION OF METALLIFEROUS MINES LICENSE TAX COLLECTIONS; PROVIDING A TRANSFER OF FUNDS TO THE ENVIRONMENTAL QUALITY PROTECTION FUND; AMENDING SECTIONS 15-37-117, 75-10-704, AND 75-10-743, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1733

388 *(Senate Bill No. 175; Wolken)* REVISING LAWS RELATED TO THE TEMPORARY EMERGENCY LODGING PROGRAM; CLARIFYING TAX CREDIT REQUIREMENTS; AMENDING SECTIONS 15-30-2381, 15-31-171, 50-51-114, AND 50-51-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 1739

389 *(Senate Bill No. 188; Vincent)* CLARIFYING THAT REAL PROPERTY DAMAGE RESTORATIONS COSTS MAY NOT BE GREATER THAN THE FAIR MARKET VALUE OF THE PROPERTY IMMEDIATELY BEFORE A FIRE; DEFINING "FOREST OR RANGE FIRE"; AMENDING SECTION 50-63-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 1740

390 *(Senate Bill No. 293; Hamlett)* ELIMINATING TERM LIMITS FOR MEMBERS OF THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTION 5-16-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1741

391 *(Senate Bill No. 306; Arntzen)* UPDATING AND REVISING NOTARIAL LAWS; PROVIDING FOR RECIPROCITY WITH NOTARIAL ACTS IN OTHER JURISDICTIONS; ALLOWING FOR ATTESTATIONS OF ELECTRONIC RECORDS; DESCRIBING THE MAINTENANCE AND USE OF A NOTARY PUBLIC'S JOURNAL; DESCRIBING PROHIBITED ACTS; AUTHORIZING THE SECRETARY OF STATE TO PROVIDE RULES; AMENDING SECTIONS 1-5-601, 1-5-602, 1-5-603, 1-5-604, 1-5-605, 1-5-606, 1-5-607, 1-5-608, 1-5-609, 1-5-610, AND 1-5-611, MCA; REPEALING SECTIONS 1-5-401, 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-406, 1-5-407, 1-5-408, 1-5-409, 1-5-415, 1-5-416, 1-5-417, 1-5-418, 1-5-419, AND 1-5-420, MCA; AND PROVIDING AN APPLICABILITY DATE 1742

392 *(Senate Bill No. 309; Hinkle)* REVISING THE UNLOCKING STATE LANDS PROGRAM TO INCLUDE SPECIFIC FEDERAL LAND; INCREASING THE TAX CREDIT FOR QUALIFIED ACCESS; REVISING CRITERIA FOR PROGRAM PARTICIPATION; AMENDING SECTIONS 15-30-2380 AND 87-1-294, MCA; AMENDING SECTION 6, CHAPTER 346, LAWS OF 2013; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE. 1758

393 *(Senate Bill No. 312; Phillips)* REVISING UTILITY UNIVERSAL SYSTEM BENEFITS PROGRAMS; REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW REPORTS; CLARIFYING LARGE CUSTOMER ANNUAL REPORTING REQUIREMENTS; PROVIDING PENALTIES FOR UTILITIES AND LARGE CUSTOMERS THAT FAIL TO FILE UNIVERSAL SYSTEM BENEFITS REPORTS; AMENDING SECTIONS 69-8-402 AND 69-8-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 1761

394 *(Senate Bill No. 326; Hinkle)* REVISING LAWS RELATED TO RECREATIONAL USE OF STATE LANDS; REQUIRING PUBLIC

NOTICE PRIOR TO LAND CLOSURES AND RESTRICTIONS ON GENERAL RECREATIONAL USE; SETTING CAMPING LIMITS; PROVIDING RULEMAKING AUTHORITY; REQUIRING REPORTING TO THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTION 77-1-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1765

395 *(Senate Bill No. 375; Sales)* REVISING THE MAXIMUM SPEED LIMITS FOR CERTAIN VEHICLES TRAVELING ON CERTAIN HIGHWAYS; REVISING FINES FOR SPEEDING VIOLATIONS; AUTHORIZING THE TRANSPORTATION COMMISSION TO ESTABLISH TEMPORARY SPEED LIMITS; AMENDING SECTIONS 61-8-303, 61-8-309, 61-8-312, 61-8-725, AND 61-11-203, MCA 1767

396 *(Senate Bill No. 380; Larsen)* INCREASING THE AMOUNT OF FUNDS AVAILABLE FROM THE PERMANENT COAL TAX TRUST FUND FOR THE MONTANA VETERANS' HOME LOAN MORTGAGE PROGRAM; AMENDING SECTIONS 17-6-308 AND 90-6-603, MCA; AND PROVIDING AN EFFECTIVE DATE 1772

397 *(Senate Bill No. 386; Cohenour)* REVISING FILING AND WITHHOLDING REQUIREMENTS FOR PASS-THROUGH ENTITIES AND LIMITING THE LATE FILING PENALTY; PROVIDING SIMPLIFICATION OF PASS-THROUGH ENTITY COMPLIANCE REQUIREMENTS; ELIMINATING CONSENT AGREEMENTS BY SECOND-TIER PASS-THROUGH ENTITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-3302 AND 15-30-3313, MCA; AND PROVIDING AN APPLICABILITY DATE. 1773

398 *(Senate Bill No. 393; Arntzen)* REVISING THE FEES FOR FILING VARIOUS SECURITY INTERESTS IN A MOTOR VEHICLE; REVISING THE APPLICATION FEES FOR AN ORIGINAL CERTIFICATE OF TITLE OR A REPLACEMENT CERTIFICATE OF TITLE TO A VEHICLE; CLARIFYING DISPOSITION OF THE FEES FOR SECURITY INTEREST FILINGS AND FOR ORIGINAL AND REPLACEMENT VEHICLE CERTIFICATES OF TITLE; PROVIDING FOR DRIVER'S LICENSE RENEWAL ONLINE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-3-103, 61-3-203, 61-3-204, 61-3-550, AND 61-5-111, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE 1778

399 *(Senate Bill No. 409; Vincent)* REVISING METAL MINE RECLAMATION LAWS; ESTABLISHING STANDARDS FOR TAILINGS STORAGE FACILITIES; ESTABLISHING A FEE; DEFINING TERMS; CREATING INDEPENDENT REVIEW PANELS; PROVIDING FOR REVIEWS AND INSPECTIONS; PROVIDING ENFORCEMENT; AMENDING SECTIONS 82-4-301, 82-4-303, 82-4-305, 82-4-335, 82-4-336, 82-4-337, AND 82-4-342, MCA; AND PROVIDING AN APPLICABILITY DATE. 1784

400 *(House Bill No. 2; Ballance)* APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUMS ENDING JUNE 30, 2015, AND ENDING JUNE 30, 2017; AND PROVIDING EFFECTIVE DATES 1808

401 *(House Bill No. 9; Cuffe)* ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE. 1862

402 *(House Bill No. 28; Eck)* REQUIRING THE BOARD OF PARDONS AND PAROLE TO VIDEO-RECORD AND AUDIO-RECORD MEETINGS OF THE BOARD AND ALL HEARINGS HELD TO CONSIDER PAROLE, RESCISSION, REVOCATION, OR CLEMENCY DECISIONS; REQUIRING THE BOARD TO MAKE THE RECORDINGS PUBLICLY

AVAILABLE; AMENDING SECTION 46-23-110, MCA; AND PROVIDING A TERMINATION DATE 1864

403 *(House Bill No. 33; Ehli)* EXPANDING MENTAL HEALTH CRISIS INTERVENTION AND JAIL DIVERSION SERVICES TO AREAS OF THE STATE THAT LACK SERVICES; REVISING REQUIREMENTS OF THE CRISIS INTERVENTION AND JAIL DIVERSION GRANT PROGRAM FOR COUNTIES; REDUCING LOCAL GOVERNMENT ENTITLEMENT SHARE PAYMENTS AND CERTAIN CALCULATIONS FOR THE PURPOSE OF PROVIDING FUNDING; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-1-121 AND 53-21-1203, MCA; AND PROVIDING AN EFFECTIVE DATE 1865

404 *(House Bill No. 34; Ehli)* APPROPRIATING FUNDS TO INCREASE THE NUMBER OF CONTRACTED SECURE PSYCHIATRIC TREATMENT BEDS; AND PROVIDING AN EFFECTIVE DATE. 1871

405 *(House Bill No. 114; Miller)* CLARIFYING LAWS RELATED TO THE USAGE OF TAX INCREMENT REMITTANCES TO SCHOOL DISTRICTS TO ENSURE A REDUCTION IN LOCAL PROPERTY TAXES; PROVIDING A TRANSITION SECTION FOR A SCHOOL DISTRICT WITH AN EXISTING AGREEMENT WITH A LOCAL GOVERNMENT; PROVIDING A TIME PERIOD FOR A SCHOOL DISTRICT TO UTILIZE TAX INCREMENT REMITTANCES; AMENDING SECTIONS 7-15-4291, 20-9-104, AND 20-9-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES 1872

406 *(House Bill No. 115; Funk)* REVISING BOARD OF NURSING LAWS; PROVIDING FOR NURSING APPLICANTS TO SUBMIT TO CRIMINAL BACKGROUND CHECKS; EXPANDING THE NURSING MEDICAL ASSISTANCE PROGRAM TO ALL LICENSEES; AND AMENDING SECTION 37-8-202, MCA 1876

407 *(House Bill No. 156; Miller)* EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL AND CARBON CAPTURE EQUIPMENT FROM PROPERTY TAXATION AND REDUCING PROPERTY TAXES FOR CARBON TRANSPORTATION AND SEQUESTRATION EQUIPMENT; PROVIDING FOR THE CERTIFICATION OF CARBON SEQUESTRATION EQUIPMENT; ALLOWING A CARRYFORWARD OF AN EXEMPTION OR RATE REDUCTION AFTER TAX YEAR 2025 FOR CERTAIN QUALIFYING PROPERTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-135, 15-6-158, AND 15-6-219, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE 1878

408 *(House Bill No. 150; Flynn)* REVISING PENALTIES FOR VIOLATION OF FISH AND WILDLIFE LAWS; REVISING PENALTIES FOR HARASSMENT OF HUNTERS AND WILDLIFE, HUNTING FROM A HIGHWAY, HUNTING FROM A VEHICLE, AND USE OF A VEHICLE WHILE HUNTING; AND AMENDING SECTIONS 87-6-215, 87-6-403, AND 87-6-405, MCA 1884

409 *(House Bill No. 167; Welborn)* REVISING LAWS RELATED TO OFF-HIGHWAY VEHICLE NONRESIDENT TEMPORARY-USE PERMITS; INCREASING THE NONRESIDENT TEMPORARY-USE PERMIT FEE FOR OFF-HIGHWAY VEHICLES; REQUIRING A NONRESIDENT TEMPORARY-USE PERMIT FOR ALL OFF-HIGHWAY VEHICLES OWNED BY NONRESIDENTS; REQUIRING THAT MONEY COLLECTED FROM THE FEE BE USED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR CERTAIN PURPOSES; AND AMENDING SECTIONS 23-2-802 AND 23-2-814, MCA. 1887

410 *(House Bill No. 204; Hertz)* REVISING LAWS RELATING TO LIABILITY WAIVERS AND RELEASES; ALLOWING THE USE OF PROSPECTIVE LIABILITY WAIVERS AND RELEASES TO LIMIT LIABILITY FOR DAMAGES OR INJURIES SUSTAINED FROM PARTICIPATING IN SPORTS OR RECREATIONAL OPPORTUNITIES; AMENDING SECTIONS 27-1-753 AND 28-2-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1888

411 *(House Bill No. 211; Wagoner)* REQUIRING THE POW/MIA FLAG TO BE DISPLAYED WITH THE FLAG OF THE UNITED STATES OF AMERICA AT SPECIFIED LOCATIONS TO SYMBOLIZE MONTANA'S CONCERN AND COMMITMENT TO ACHIEVING THE FULLEST POSSIBLE ACCOUNTING OF U.S. MILITARY PERSONNEL WHO ARE OR MAY IN THE FUTURE BECOME PRISONERS OF WAR, MISSING IN ACTION, OR OTHERWISE UNACCOUNTED FOR AS A RESULT OF HOSTILE ACTION; AND PROVIDING AN EFFECTIVE DATE 1890

412 *(House Bill No. 219; Essmann)* MAKING IT A FELONY OFFENSE FOR CERTAIN HIGH-RISK SEXUAL OFFENDERS TO RESIDE OR WORK WITHIN CERTAIN GEOGRAPHICALLY RESTRICTED AREAS; PROVIDING EXCEPTIONS; PROVIDING A PENALTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 46-18-255 AND 46-23-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE 1891

413 *(House Bill No. 226; Richmond)* REVISING LAWS RELATED TO FUNDING OF OIL AND GAS RECLAMATION PROJECTS; DECREASING FUNDS FOR RECLAMATION AND DEVELOPMENT GRANTS; INCREASING FUNDS FOR OIL AND GAS DAMAGE MITIGATION; AMENDING SECTIONS 15-38-202, 82-11-161, AND 90-2-1113, MCA; AND PROVIDING AN EFFECTIVE DATE 1893

414 *(House Bill No. 228; Berry)* TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2017; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE. 1897

415 *(House Bill No. 270; Richmond)* PROVIDING FOR A COMPLIANCE SCHEDULE TO MEET THE NUTRIENT LIMITS IN A MODIFIED DISCHARGE PERMIT AFTER AN OBJECTION BY THE ENVIRONMENTAL PROTECTION AGENCY; AND PROVIDING FOR DEPARTMENT REVIEW OF THE COMPLIANCE SCHEDULE 1900

416 *(House Bill No. 300; White)* CREATING THE SNOWMOBILE TRAIL PASS; PROVIDING FEES AND PENALTIES; DEFINING TERMS; REORGANIZING SECTIONS; AMENDING SECTIONS 15-1-122, 23-2-601, 23-2-614, 23-2-644, AND 23-2-657, MCA; AND REPEALING SECTION 23-2-652, MCA 1900

417 *(House Bill No. 306; Eck)* REMOVING CERTAIN LIMITATIONS ON UNEMPLOYMENT BENEFITS FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; AMENDING SECTION 39-51-2111, MCA; AND PROVIDING AN EFFECTIVE DATE 1904

418 *(House Bill No. 359; Lieser)* ADJUSTING INFLATION FACTOR CALCULATION FOR INDIVIDUAL INCOME TAX; PROVIDING A TRANSITION SECTION FOR TAX YEAR 2016; AMENDING SECTIONS 15-30-2101, 15-30-2103, 15-30-2110, 15-30-2114, 15-30-2132, AND 15-30-2602, MCA; AND PROVIDING AN APPLICABILITY DATE. . . . 1905

419 *(House Bill No. 403; Hagstrom)* APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2017; PROVIDING

FOR A TRANSFER OF FUNDS; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1918

420 *(House Bill No. 454; Fitzpatrick)* REVISING HOW A POLITICAL PARTY MAY SELECT COMMITTEE REPRESENTATIVES FOR ELECTION PRECINCTS; AND AMENDING SECTIONS 13-10-201, 13-10-211, 13-38-201, AND 13-38-202, MCA 1922

421 *(House Bill No. 463; McCarthy)* GENERALLY REVISING FORFEITURE LAWS; REQUIRING A CRIMINAL CONVICTION FOR FORFEITURE OF PROPERTY; REQUIRING NOTICE OF SEIZED PROPERTY; PROVIDING FOR A PRETRIAL HEARING TO DETERMINE THE VALIDITY OF THE SEIZURE; REQUIRING A HEARING UPON CRIMINAL CONVICTION TO DETERMINE WHETHER PROPERTY MUST BE FORFEITED; REQUIRING PROOF BY CLEAR AND CONVINCING EVIDENCE THAT SEIZED PROPERTY WAS USED IN CONNECTION WITH OR CONSTITUTES PROCEEDS FROM THE COMMISSION OF A CRIMINAL OFFENSE; PROVIDING EXCEPTIONS FOR INNOCENT OWNERS AND PERSONS WITH AN OWNERSHIP INTEREST IN SEIZED PROPERTY; APPLYING PRETRIAL HEARING AND INNOCENT OWNER PROVISIONS TO CRIMINAL FORFEITURE LAWS; CLARIFYING FORFEITURE PROCEEDINGS RELATED TO COMMONLY DOMESTICATED HOOFED ANIMALS AND MOTOR VEHICLES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PROVIDING DEFINITIONS; AMENDING SECTIONS 44-12-101, 44-12-102, 44-12-103, 44-12-205, 45-6-328, 45-9-206, AND 61-8-421, MCA; REPEALING SECTIONS 44-12-201, 44-12-202, 44-12-203, AND 44-12-204, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE 1926

422 *(House Bill No. 464; Brown)* PROVIDING FOR A VOLUNTARY HIGH-PERFORMANCE BUILDING PROGRAM FOR EXISTING BUILDINGS WITHIN STATE AGENCIES AND THE MONTANA UNIVERSITY SYSTEM; PROVIDING FOR TRANSFER OF UTILITY FUNDS; PROVIDING FOR A STATE SPECIAL REVENUE ACCOUNT; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A TERMINATION DATE. 1936

423 *(House Bill No. 487; Jones)* CREATING A MONTANA HISTORICAL SOCIETY MEMBERSHIP AND A MONTANA ORIGINAL GOVERNOR'S MANSION SPECIAL REVENUE ACCOUNT; PROVIDING FOR STATUTORY APPROPRIATIONS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1938

424 *(House Bill No. 488; Regier)* GENERALLY REVISING LAWS CONCERNING DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; ESTABLISHING A BLOOD-DRAW SEARCH WARRANT PROCESSING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR THE IMPOSITION OF A FINE UPON A PERSON'S REFUSAL TO SUBMIT TO A BLOOD-DRAW TEST; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT RULES FOR THE COLLECTION, ADMINISTRATION, AND ACCOUNTABILITY OF BLOOD-DRAW REFUSAL FINES; REVISING LAWS AND PENALTIES RELATED TO THE OFFENSE OF AGGRAVATED DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; INCREASING FINES FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; INCREASING FINES FOR THE OFFENSE OF DRIVING WITH EXCESSIVE ALCOHOL CONCENTRATION OR

DELTA-9-TETRAHYDROCANNABINOL; REVISING LAWS AND PENALTIES RELATING TO THE OFFENSE OF FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REVISING PENALTIES AND SENTENCING PROVISIONS FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AMENDING SECTIONS 46-16-130, 61-5-208, 61-5-231, 61-8-401, 61-8-402, 61-8-403, 61-8-405, 61-8-408, 61-8-409, 61-8-421, 61-8-442, 61-8-465, 61-8-714, 61-8-722, 61-8-731, 61-8-732, 61-8-733, 61-8-734, AND 61-8-741, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE 1940

425 *(House Bill No. 510; Redfield)* FACILITATING IMPROVED LAND AND RESOURCE MANAGEMENT ON PUBLIC LANDS IN MONTANA TO AID LOCAL GOVERNMENTS IN REDUCING WILDFIRE RISK AND IMPROVING FOREST HEALTH ON FEDERAL LANDS; ESTABLISHING DUTIES FOR THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; PROVIDING STATE ASSISTANCE TO LOCAL GOVERNMENTS; GRANTING RULEMAKING AUTHORITY; ESTABLISHING A LOCAL GOVERNMENT FOREST ADVISOR; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE 1957

426 *(House Bill No. 559; Kipp)* REVISING THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM; ALLOWING TRIBAL GOVERNMENTS OR THEIR DESIGNEES TO ADMINISTER LOCAL PROGRAMS; REMOVING THE REQUIREMENT FOR LOCAL PROGRAM ADVISORY BOARDS; REQUIRING THE LOCAL PROGRAMS TO REPORT TO THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; REQUIRING THE COMMISSION TO REPORT TO THE LEGISLATURE; PROVIDING AN APPROPRIATION; AMENDING SECTION 7, CHAPTER 410, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1958

427 *(House Bill No. 560; Hertz)* REVISING THE FUND STRUCTURE AND THE BUDGETING PROCESS FOR THE BOARD OF PUBLIC ACCOUNTANTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-15-1756, 17-7-502, 37-1-101, AND 37-50-205, MCA; REPEALING SECTION 37-50-315, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND A TERMINATION DATE 1961

428 *(Senate Bill No. 83; Kaufmann)* GENERALLY REVISING HEALTH INSURANCE LAWS; ADOPTING AND REVISING PROCESSES THAT PROVIDE FOR UTILIZATION REVIEW, GRIEVANCES, AND EXTERNAL REVIEW OF A HEALTH INSURANCE ISSUER'S ACTIONS; PROVIDING GUIDELINES FOR INDEPENDENT REVIEW ORGANIZATIONS FOR EXTERNAL REVIEWS; LIMITING LIABILITY FOR INDEPENDENT REVIEW ORGANIZATIONS FOR DECISIONS MADE IN EXTERNAL REVIEWS; REQUIRING HEALTH INSURANCE ISSUERS TO PAY THE COSTS OF AN EXTERNAL REVIEW; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-30-102, 33-31-111, 33-32-101, 33-32-102, 33-32-103, 33-32-104, 33-32-105, AND 33-33-103, MCA; REPEALING SECTIONS 33-32-201, 33-32-203, 33-32-204, 33-37-101, 33-37-102, 33-37-103, 33-37-104, 33-37-105, 33-37-106, AND 33-37-110, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE 1964

429 *(Senate Bill No. 100; Larsen)* GRANTING THE BOARD OF LIVESTOCK THE POWER TO CONTROL AND ERADICATE FERAL SWINE; PROVIDING RULEMAKING AUTHORITY; PROHIBITING THE POSSESSION, HUNTING, AND OTHER ACTIONS RELATED TO

FERAL SWINE; ESTABLISHING LIMITS ON COST OF DEPARTMENT OF LIVESTOCK ENFORCEMENT ACTIONS; ESTABLISHING PENALTIES; AMENDING SECTIONS 81-4-207 AND 81-4-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2013

430 *(Senate Bill No. 180; Hoven)* REVISING THE FUNDING SOURCE FOR THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT; ALLOCATING REVENUE FROM THE RENTAL CAR SALES AND USE TAX TO THE ACCOUNT; REMOVING A GENERAL FUND TRANSFER TO THE ACCOUNT; REVISING THE PROVISION OF FUNDS FROM THE ACCOUNT; AMENDING SECTIONS 7-14-112, 10-3-801, 15-1-122, AND 15-68-820, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE 2015

431 *(Senate Bill No. 211; Buttrey)* ESTABLISHING PROCEDURES RELATED TO MAXIMUM ALLOWABLE COST LISTS FOR PRESCRIPTION DRUGS; REQUIRING DISCLOSURE OF PRICING SOURCES; AND PROVIDING AN APPEAL PROCESS. 2019

432 *(Senate Bill No. 252; Jones)* REVISING SCHOOL FUNDING RELATED TO OIL AND NATURAL GAS PRODUCTION TAXES; REMOVING THE REQUIREMENT THAT SCHOOL DISTRICTS RECEIVING OIL AND NATURAL GAS PRODUCTION TAX REVENUE BUDGET A PORTION OF THAT REVENUE IN THE DISTRICT GENERAL FUND; CLARIFYING DISTRIBUTIONS FROM THE STATE SCHOOL OIL AND NATURAL GAS IMPACT AND DISTRIBUTION ACCOUNTS; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-9-310, 20-9-517, AND 20-9-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 2021

433 *(Senate Bill No. 260; Moore)* REVISING DISTRIBUTIONS FROM THE STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; PROVIDING FOR THE DISTRIBUTION OF FUNDS BY THE OFFICE OF PUBLIC INSTRUCTION; GRANTING RULEMAKING AUTHORITY; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-9-310, 20-9-517, 20-9-518, AND 20-9-520, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE. . . . 2030

434 *(Senate Bill No. 378; Arntzen)* REVISING ELIGIBILITY FOR MONTANA'S INCOME TAX EXEMPTION WITH RESPECT TO SALARIES PAID TO NATIONAL GUARD MEMBERS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 15-30-2117, MCA; AND PROVIDING AN APPLICABILITY DATE 2039

435 *(Senate Bill No. 390; Arntzen)* REQUIRING THE ECONOMIC AFFAIRS INTERIM COMMITTEE TO CONDUCT AN INTERIM STUDY OF FEES ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AND PROFESSIONAL LICENSING BOARDS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 2040

436 *(Senate Bill No. 399; Thomas)* AUTHORIZING THE CREATION OF THE MONTANA ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM; REQUIRING THAT THE PROGRAM COMPLY WITH FEDERAL LAW AUTHORIZING THE PROGRAM; CREATING AN OVERSIGHT COMMITTEE; PROVIDING FOR TAX-EXEMPT SAVINGS ACCOUNTS FOR DISABILITY-RELATED EXPENSES; DESIGNATING QUALIFIED AND NONQUALIFIED WITHDRAWALS; ALLOWING A CHANGE IN BENEFICIARY; PROVIDING FOR SELECTION OF FINANCIAL INSTITUTIONS AND PROGRAM MANAGERS; ALLOWING A DEDUCTION FROM ADJUSTED GROSS INCOME FOR CERTAIN

CONTRIBUTIONS TO AN ACCOUNT; PROVIDING FOR A RECAPTURE TAX FOR CERTAIN WITHDRAWALS OF DEDUCTIBLE CONTRIBUTIONS; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONTRACT WITH ANOTHER STATE TO ALLOW MONTANA RESIDENTS ACCESS TO THE OTHER STATE'S 529A PROGRAM; PROVIDING THAT AN ACCOUNT MAY NOT BE COUNTED AS A RESOURCE FOR DETERMINING ELIGIBILITY FOR STATE ASSISTANCE PROGRAMS; CREATING AN ACHIEVING A BETTER LIFE EXPERIENCE SAVINGS TRUST; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 2041

437 *(Senate Bill No. 401; Caferro)* REVISING BOXING LAWS; CLARIFYING THE USE OF DEPARTMENT REPRESENTATIVES AT PROFESSIONAL BOXING EVENTS; ESTABLISHING GUIDELINES FOR MEDICAL EXAMINATIONS PRIOR TO EVENTS AND FOR LICENSURE; ALLOWING VENUE OWNERS AND PROMOTERS TO DETERMINE THE NEED FOR SECURITY PERSONNEL; ESTABLISHING LICENSE FEES; AMENDING SECTIONS 23-3-402, 23-3-404, 23-3-405, AND 23-3-501, MCA; REPEALING SECTIONS 23-3-502, 23-3-601, AND 23-3-602, MCA; AND PROVIDING AN EFFECTIVE DATE. 2056

438 *(Senate Bill No. 418; Jones)* AUTHORIZING TRANSFERS AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; REVISING LAWS GOVERNING STATE EMPLOYEE COMPENSATION; PROVIDING LEGISLATIVE POLICY ON MENTAL HEALTH INVESTMENTS AS SET FORTH IN THE GENERAL APPROPRIATIONS ACT; PROVIDING FOR LEGISLATIVE INTENT REGARDING THE IMPLEMENTATION OF SENATE BILL NO. 405; AMENDING SECTIONS 2-18-301, 2-18-303, 2-18-703, 2-18-812, AND 87-1-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2059

439 *(House Bill No. 629; Redfield)* PROVIDING THAT THE EXECUTIVE OFFICER OF THE BOARD OF LIVESTOCK SERVES AT THE PLEASURE OF THE BOARD OF LIVESTOCK; PROVIDING AN APPROPRIATION; AMENDING SECTION 81-1-102, MCA; AND PROVIDING EFFECTIVE DATES 2066

440 *(Senate Bill No. 122; Rosendale)* ENSURING THE AVAILABILITY OF MONTANA AMMUNITION; ENCOURAGING THE FORMATION OF BUSINESS IN MONTANA PRIMARILY ENGAGED IN THE MANUFACTURE OF AMMUNITION COMPONENTS; PROVIDING EXEMPTIONS FROM PROPERTY TAXES; CLARIFYING THAT THE FIREARMS LIABILITY LAW APPLIES TO AMMUNITION COMPONENTS MANUFACTURED IN MONTANA; EXPANDING ECONOMIC DEVELOPMENT CRITERIA TO ENCOMPASS THE MANUFACTURE OF AMMUNITION COMPONENTS; AMENDING SECTIONS 15-6-219, 27-1-720, 90-1-118, AND 90-1-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE 2067

441 *(Senate Bill No. 212; Sales)* REVISING PENALTY AND INTEREST PROVISIONS FOR CERTAIN TAXPAYERS WHO RECEIVE AN EXTENSION FOR FILING INDIVIDUAL INCOME TAX RETURNS; AND AMENDING SECTION 15-30-2604, MCA 2071

442 *(Senate Bill No. 272; Windy Boy)* STRENGTHENING MONTANA'S COMMITMENT IN ITS EDUCATIONAL GOALS TO THE PRESERVATION OF AMERICAN INDIAN CULTURAL INTEGRITY AS STATED IN ARTICLE X, SECTION 1, OF THE MONTANA CONSTITUTION; ENCOURAGING SCHOOL DISTRICTS TO CREATE

INDIAN LANGUAGE IMMERSION PROGRAMS; PROVIDING FUNDING; PROVIDING AN APPROPRIATION; INCLUDING AMERICAN INDIAN LANGUAGE AND CULTURE SPECIALISTS IN THE QUALITY EDUCATOR PAYMENT; AMENDING SECTION 20-9-327, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE 2072

443 *(Senate Bill No. 387; Smith)* IMPLEMENTING MAXIMUM PENALTIES FOR WATER QUALITY VIOLATIONS THAT DO NOT HARM OR HAVE THE POTENTIAL TO HARM HUMAN HEALTH, THE ENVIRONMENT, OR THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S ABILITY TO PROTECT HUMAN HEALTH OR THE ENVIRONMENT; AND AMENDING SECTION 75-5-611, MCA. 2075

444 *(Senate Bill No. 411; Caferro)* REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CLOSE THE MONTANA DEVELOPMENTAL CENTER; CREATING A TEMPORARY TRANSITION PLANNING COMMITTEE TO ASSIST THE DEPARTMENT IN DEVELOPING OF A PLAN FOR CLOSURE; REQUIRING THE DEPARTMENT TO MOVE RESIDENTS INTO COMMUNITY-BASED SERVICES; ESTABLISHING THE DEPARTMENT'S DUTIES; ESTABLISHING LIMITS ON ADMISSIONS TO THE MONTANA DEVELOPMENTAL CENTER; ESTABLISHING LIMITS ON EXPENDITURES; AMENDING SECTIONS 20-7-401, 53-20-102, 53-20-104, 53-20-125, 53-20-129, 53-20-146, 53-20-148, 53-20-161, 53-20-163, 53-20-214, AND 90-7-220, MCA; AND PROVIDING EFFECTIVE DATES. 2077

445 *(Senate Bill No. 261; Hamlett)* CREATING THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; ESTABLISHING THE MONTANA SAGE GROUSE OVERSIGHT TEAM; PROVIDING DUTIES AND RULEMAKING AUTHORITY; PROVIDING FINDINGS AND DEFINITIONS; ESTABLISHING THE SAGE GROUSE STEWARDSHIP ACCOUNT; PROVIDING GRANT CRITERIA; ALLOWING FOR COMPENSATORY MITIGATION; CONDITIONING THE FUNDING OF LEASES OR CONSERVATION EASEMENTS; PROVIDING FOR MANAGEMENT OF CONVEYED LANDS; REQUIRING REPORTING; PROVIDING A CONTINGENT FUND TRANSFER AND APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2092

446 *(House Bill No. 6; Cuffe)* IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE. 2099

447 *(House Bill No. 8; Cuffe)* APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING RENEWABLE RESOURCE PROJECTS AUTHORIZED BY THE 63RD LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; AUTHORIZING THE CREATION OF A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS ON LOANS; AND PROVIDING AN EFFECTIVE DATE 2106

448 *(House Bill No. 10; McCarthy)* REVISING LAWS RELATED TO INFORMATION TECHNOLOGY CAPITAL PROJECTS; APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2017; PROVIDING FOR MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF TRANSPORTATION, AND THE JUDICIAL BRANCH; AND PROVIDING EFFECTIVE DATES 2109

449 *(House Bill No. 140; Welborn)* REVISING LAWS RELATED TO HUNTING AND FISHING LICENSES; REQUIRING AN ADDITIONAL BUDGET REVIEW AND REPORT TO THE LEGISLATURE; CREATING A BASE HUNTING LICENSE; REORGANIZING AND RECODIFYING CERTAIN LICENSE STATUTES; CLARIFYING THE PRICE OF A CLASS B-12 NONRESIDENT ANTLERLESS ELK B TAG LICENSE; INCREASING FISHING LICENSE FEES; ELIMINATING FREE LICENSES FOR CERTAIN YOUTH, SENIOR, DISABLED, AND NONRESIDENT HUNTERS AND ANGLERS AND STANDARDIZING DISCOUNTED LICENSE PRICES; CLARIFYING THE FEES FOR CLASS B-10 NONRESIDENT BIG GAME COMBINATION LICENSES AND CLASS B-11 NONRESIDENT DEER COMBINATION LICENSES; EQUALIZING LICENSES AVAILABLE TO AND FEES FOR NONRESIDENT RELATIVES OF RESIDENTS AND NONRESIDENTS WHO HUNT WITH A RESIDENT SPONSOR OR FAMILY MEMBER; INCREASING THE CLASS B-14 NONRESIDENT COLLEGE STUDENT BIG GAME COMBINATION LICENSE FEE; INCREASING NONRESIDENT MOOSE, MOUNTAIN GOAT, MOUNTAIN SHEEP, AND BISON LICENSE FEES; AUTHORIZING FREE FISHING FOR ALL YOUTH UNDER AGE 12; REDUCING LICENSE AGE BRACKETS FOR YOUTH; REVISING DISTRIBUTION OF HUNTING LICENSE REVENUE FOR HUNTING ACCESS PROGRAMS; CREATING AN APPRENTICE HUNTING CERTIFICATE FOR YOUTH BETWEEN 10 AND 18 YEARS OF AGE AND PROVIDING QUALIFYING CONDITIONS; AMENDING SECTIONS 61-8-369, 87-1-270, 87-1-290, 87-2-104, 87-2-105, 87-2-202, 87-2-301, 87-2-302, 87-2-304, 87-2-306, 87-2-307, 87-2-403, 87-2-404, 87-2-505, 87-2-506, 87-2-510, 87-2-511, 87-2-514, 87-2-520, 87-2-522, 87-2-525, 87-2-526, 87-2-701, 87-2-706, 87-2-711, 87-2-801, 87-2-803, 87-2-805, 87-6-301, 87-6-403, 87-6-405, AND 87-6-921, MCA; REPEALING SECTIONS 87-2-515 AND 87-2-809, MCA; AND PROVIDING EFFECTIVE DATES 2112

450 *(House Bill No. 512; Mortensen)* ESTABLISHING AN EASTERN MONTANA LABORATORY OF CRIMINALISTICS IN YELLOWSTONE COUNTY; PROVIDING AN APPROPRIATION FOR LEASING OF THE LABORATORY; AND PROVIDING AN EFFECTIVE DATE 2136

451 *(Senate Bill No. 233; Caferro)* ESTABLISHING REQUIREMENTS FOR MEDICAID-FUNDED DEVELOPMENTAL DISABILITY SERVICES FOR CERTAIN MILITARY DEPENDENTS; AMENDING SECTION 53-20-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2137

452 *(Senate Bill No. 283; Brenden)* GENERALLY REVISING LEGISLATOR CONSTITUENT ACCOUNT LAWS; PROVIDING FOR A STIPEND AND ALLOWING FOR REIMBURSEMENT OF CONSTITUENT SERVICES EXPENSES NOT PAID FROM A CONSTITUENT SERVICES ACCOUNT

OR OTHERWISE REIMBURSED; AND PROVIDING A DELAYED EFFECTIVE DATE 2139

453 *(Senate Bill No. 336; Keenan)* GENERALLY REVISING RULEMAKING PROCEDURES; REQUIRING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INCLUDE CERTAIN INFORMATION IN RULEMAKING NOTICES PERTAINING TO THE DELIVERY OF MEDICAID SERVICES; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PREPARE AND ELECTRONICALLY SEND A STATEMENT OF FINDINGS TO INTERESTED PERSONS CONCERNING THE RULE'S INTENDED OUTCOMES WITHIN A YEAR AFTER THE RULE'S EFFECTIVE DATE IF THE RULE PERTAINS TO THE DELIVERY OF MEDICAID SERVICES; PROVIDING EXCEPTIONS; AMENDING PAYMENTS THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES IS ENTITLED TO COLLECT FROM CERTAIN PROVIDERS; AMENDING SECTION 53-6-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE 2140

454 *(Senate Bill No. 385; Webb)* GENERALLY REVISING LAWS RELATED TO LANDLORDS AND TENANTS; REQUIRING THAT A COURT ISSUE A WRIT OF POSSESSION IF A LANDLORD'S CLAIM FOR POSSESSION IS GRANTED IN CERTAIN ACTIONS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 70-24-103, 70-24-427, 70-33-103, AND 70-33-427, MCA. 2142

455 *(Senate Bill No. 389; Hamlett)* PROVIDING DEFINITIONS FOR "EPHEMERAL STREAM" AND "INTERMITTENT STREAM"; AMENDING THE DEFINITION OF "PERENNIAL FLOWING STREAM"; CLARIFYING THAT A WATER RIGHTS PERMIT IS NOT NEEDED FOR CONSTRUCTING A STOCK POND WITH AN APPROPRIATION FROM AN EPHEMERAL OR INTERMITTENT STREAM; AND AMENDING SECTIONS 85-2-306 AND 85-2-355, MCA 2146

456 *(Senate Bill No. 396; Buttrey)* GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK CARRIER SERVICES; PROVIDING FOR A FEE; PROVIDING OPERATING REQUIREMENTS FOR CLASS E MOTOR CARRIERS; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; PROVIDING FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK CARRIERS; REQUIRING TRANSPORTATION NETWORK CARRIERS TO PROVIDE DISCLOSURES; PROVIDING INSURANCE REQUIREMENTS; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; CLARIFYING EXEMPTIONS; AMENDING SECTIONS 7-1-111, 69-12-101, 69-12-102, 69-12-205, 69-12-210, 69-12-301, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-323, 69-12-324, 69-12-404, 69-12-406, 69-12-407, 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN EFFECTIVE DATE 2149

457 *(Senate Bill No. 410; Jones)* GENERALLY REVISING LAWS RELATED TO TAX CREDITS FOR ELEMENTARY AND SECONDARY EDUCATION; ALLOWING INCOME TAX CREDITS FOR DONATIONS

TO PUBLIC SCHOOLS AND STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING SUPPLEMENTAL FUNDING TO PUBLIC SCHOOLS FOR INNOVATIVE EDUCATION; ESTABLISHING GEOGRAPHIC REGIONS AND DISTRICTS FOR SUPPLEMENTAL FUNDING DISTRIBUTIONS; CREATING A STATE SPECIAL REVENUE ACCOUNT; ESTABLISHING OPERATING REQUIREMENTS, REVIEW PROCESSES, AND TERMINATION PROCEDURES FOR STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING THAT THE AMOUNT OF A SCHOLARSHIP IS NOT TAXABLE INCOME; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-30-2110, 15-30-2618, 15-31-511, 17-7-502, AND 20-9-543, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE 2165

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LAWS

Enacted by the

SIXTY-FOURTH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 5, 2015, through April 28, 2015

Explanatory Note: Section 5-11-205, MCA, provides that new parts of existing statutes be printed in italics and that deleted provisions be shown as stricken.

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

CHAPTER NO. 1

[HB 1]

AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE CURRENT AND SUBSEQUENT LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) The following amounts are appropriated from the state general fund for fiscal years 2015, 2016, and 2017 for the operation of the 64th legislature and the costs of preparing for the 65th legislature:

LEGISLATIVE BRANCH (1104)

1. Senate	$3,402,855
2. House of Representatives	5,455,477
3. Legislative Services Division	643,722

(2) The following amounts are appropriated from the state general fund for fiscal year 2017 for the initial costs of the 65th legislature:

LEGISLATIVE BRANCH (1104)

1. Senate	$222,958
2. House	385,322
3. Legislative Services Division	16,500

Section 2. Effective date. [This act] is effective on passage and approval.

Approved January 26, 2015

CHAPTER NO. 2

[SB 18]

AN ACT REVISING THE TIMEFRAME IN WHICH THE DEPARTMENT OF REVENUE IS REQUIRED TO CALCULATE THE GROWTH RATE OF THE ENTITLEMENT SHARE POOL; AND AMENDING SECTION 15-1-121, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment — purpose — appropriation. (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-9-506; and

(iv) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(h) late filing fees pursuant to 61-3-220;

(i) title and registration fees pursuant to 61-3-203;

(j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;

(l) special mobile equipment fees pursuant to 61-3-431;

(m) single movement permit fees pursuant to 61-4-310;

(n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in fiscal year 2010 as an entitlement share payment under this section is the base component for the fiscal year 2011 distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(b) The total amount received by each local government in fiscal year 2011 as an entitlement share payment under this section is the base component for fiscal year 2012 and 2013 distributions, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) With the exception of fiscal years 2012 and 2013, the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year, with the exception of fiscal years 2012 and 2013.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the ~~current~~ *next fiscal* year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in ~~subsection~~ *subsections* (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsection (4)(b)(iii), the entitlement share growth rate is the lesser of:

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. The entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local

governments. Except for the distribution made under 15-1-123(2)(b), the distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used

in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) Except for the reimbursement made under 15-1-123(4)(b), one-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Deer Lodge	TIF District 1	$2,833
Deer Lodge	TIF District 2	2,813
Flathead	Kalispell - District 2	4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009
Silver Bow	Butte - uptown	255,421

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, from countywide transportation block grants, or from countywide retirement block grants.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

Approved February 10, 2015

CHAPTER NO. 3

[SB 33]

AN ACT REVISING REPORTS TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE; AND AMENDING SECTIONS 15-1-230, 15-24-3211, 15-32-703, 15-70-369, AND 61-10-154, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-230, MCA, is amended to read:

"15-1-230. (Temporary) Report on income tax credit to committee. The department shall report to the revenue and transportation interim committee ~~at least once each year~~ *biennially* the number and type of taxpayers claiming the credit under 15-30-2328, the total amount of the credit claimed, the total amount of the credit recaptured, and the department's cost associated with administering the credit. (Terminates December 31, 2019—secs. 2 through 8, Ch. 317, L. 2013.)"

Section 2. Section 15-24-3211, MCA, is amended to read:

"15-24-3211. Report to interim committee. ~~By September 15, 2014, the~~ *The* department shall ~~provide a~~ report to the revenue and transportation interim committee *biennially* on the use of property tax ~~abatement~~ *abatements* under 15-24-3202 and 15-24-3203. The committee shall, based on information contained in the report, make recommendations to the next legislature on the continuation or structure of the abatement."

Section 3. Section 15-32-703, MCA, is amended to read:

"15-32-703. Biodiesel blending and storage tax credit — recapture — report to interim committee. (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property used for storing or blending biodiesel with petroleum diesel for sale.

(2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for sale or in any tax year in which the taxpayer is blending biodiesel fuel for sale.

(3) (a) The total amount of the credits for all years that may be claimed by a distributor under this section is 15% of the costs described in subsection (1), up to a total of $52,500.

(b) The total amount of the credits for all years that may be claimed by an owner or operator of a motor fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of $7,500.

(4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this section:

(a) The investment must be for depreciable property used primarily to blend petroleum diesel with biodiesel made entirely from Montana-produced feedstocks.

(b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year following the initial tax year in which the credit is initially claimed.

(c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that blends biodiesel.

(ii) If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(d) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection (2), must have been blending biodiesel during the tax year for which the credit is claimed.

(5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event of recapture.

(7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

(9) As used in this section, "biodiesel" has the meaning provided in 15-70-301.

(10) The department shall report to the revenue and transportation interim committee ~~at least once each year~~ *biennially* regarding the number and type of taxpayers claiming the credit under this section, the total amount of the credit claimed, and the department's cost associated with administering the credit."

Section 4. Section 15-70-369, MCA, is amended to read:

"15-70-369. Refund for taxes paid on biodiesel by distributor or retailer — statement — payment — appropriation — records — report to interim committee. (1) A licensed distributor who pays the special fuel tax under 15-70-343 on biodiesel, as defined in 15-70-301, may claim a refund equal to 2 cents a gallon on biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on a form provided by the department.

(b) The statement provided by a licensed distributor must set forth information required by the department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

(c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information required by the department, including the gallons of biodiesel purchased.

(4) The payment of the refund allowed by this section must be made by the department within 90 days after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet. Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state general fund.

(5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept for a period of not more than 3 years and must include receipts, invoices, and other information as the department may require.

(6) The department or its authorized representative may examine the books, papers, or records of any licensed distributor or owner or operator of a retail motor fuel outlet.

(7) The department shall report to the revenue and transportation interim committee ~~at least once each year~~ *biennially* the number and type of taxpayers claiming the refund under this section, the total amount of the refund claimed, and the department's cost associated with administering the refund."

Section 5. Section 61-10-154, MCA, is amended to read:

"61-10-154. Department of transportation to adopt motor carrier safety standards — enforcement — designation of peace officers — duties — violations. (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;

(e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or

(f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.

(3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

(5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under this section;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.

(6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:

(a) the same authority to enforce provisions of the motor carriers law as that granted to the public service commission under 69-12-203;

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was obtained; and

(c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3.

(7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department within 5 days in accordance with 61-11-101.

(8) The department of transportation shall report to the revenue and transportation interim committee ~~at least once each year~~ *biennially* on its enforcement of the provisions of Title 15, chapter 70, part 3, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund."

Approved February 10, 2015

CHAPTER NO. 4

[HB 63]

AN ACT MODERNIZING AND REVISING LICENSING REQUIREMENTS AND REGULATION OF PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS, ENGINEER INTERNS, LAND SURVEYOR INTERNS, AND BUSINESSES OFFERING ENGINEERING AND LAND SURVEYING

SERVICES; AMENDING SECTIONS 37-67-101, 37-67-103, 37-67-202, 37-67-312, 37-67-313, 37-67-314, AND 37-67-331, MCA; REPEALING SECTIONS 37-67-302, 37-67-303, 37-67-305, 37-67-306, 37-67-307, 37-67-308, 37-67-309, 37-67-310, 37-67-311, 37-67-320, AND 37-67-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-67-101, MCA, is amended to read:

"37-67-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of professional engineers and professional land surveyors provided for in 2-15-1763.

(2) "Branch office" means any office or location where business is conducted that is not the headquarters, main office, home office, or other primary location of a sole proprietorship, firm, partnership, or corporation for purposes of regulation under [section 13].

~~(2)~~*(3)* "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(3)~~*(4)* "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.

~~(4)~~*(5) (a)* "Engineering survey" means all survey activities required to support the sound conception, planning, design, construction, maintenance, operation, and association of engineering projects~~, but excludes~~.

(b) The term does not include the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

~~(5)~~*(6)* "Land surveyor intern" means a person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying, as provided in this chapter.

~~(6)~~*(7)* (a) "Practice of engineering" means:

(i) any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of water, teaching of advanced engineering subjects, engineering surveys, and the inspection of construction for the purpose of ensuring compliance with drawings and specifications;

(ii) any of the functions described in subsection ~~(6)(a)(i)~~ *(7)(a)(i)* that embrace the services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life, health, or property.

(b) The term includes other professional services necessary to the planning, progress, and completion of any engineering services.

(c) The term does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines.

~~(7)~~*(8)* "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions;

(g) preparation and perpetuation of maps, plats, field note records, and property descriptions; and

(h) locating, relocating, establishing, reestablishing, laying out, or retracing of any property line or boundary of any tract of land or road, right-of-way, easement, right-of-way easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

~~(8)~~*(9)* "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, is qualified to practice engineering and who has been licensed as a professional engineer by the board.

~~(9)~~*(10)* "Professional land surveyor" means a person who:

(a) has been licensed as a land surveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of land surveying.

~~(10)~~*(11)* "Responsible charge" means direct charge and control and personal supervision either of engineering work or of land surveying. Only a professional engineer or a professional land surveyor may legally assume responsible charge under this chapter."

Section 2. Section 37-67-103, MCA, is amended to read:

"37-67-103. Exemptions. The following are exempt from ~~coverage~~ *licensure* under this chapter:

(1) the practice of any other legally recognized professions or trades;

(2) the mere execution of work by a contractor, as distinguished from its planning or design or the supervision of the construction of work as a lead supervisor or superintendent;

(3) the work of an employee or a subordinate of a person holding a license under this chapter or an employee of a person practicing lawfully under this chapter if the work does not include final engineering or land surveying designs or decisions and is done under the direct supervision of a person holding a license under this chapter or a person practicing lawfully under this chapter;

(4) the practice of professional engineering by licensed architects when the practice is purely incidental to their practice of architecture."

Section 3. Section 37-67-202, MCA, is amended to read:

"37-67-202. Rulemaking. The board may adopt rules~~, including rules of procedure,~~ reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it."

Section 4. Application — contents — fees. An application must include a completed form that must be accompanied by a nonrefundable application fee prescribed by the board and all other required supplemental documents and information. The form must be approved by the department.

Section 5. Qualifications of applicant for examination and licensure as professional engineer. (1) An applicant who meets any of the following sets of requirements must be admitted to the principles and practices of engineering examination:

(a) a baccalaureate degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(b) a master's degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(c) a baccalaureate degree in an engineering, engineering technology, or other science curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 20 years of experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, with at least 10 years of that experience under the supervision of a licensed professional engineer, and references as required by the board;

(d) a doctoral degree in engineering from an institution with an engineering program approved by the board, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 2 years of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant is competent to practice engineering, and references as required by the board; or

(e) a doctoral degree in engineering from an institution with an engineering program approved by the board, a specific record of at least 4 years of progressive experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, and references as required by the board.

(2) Upon passage of the principles and practices of engineering examination, an applicant must be granted a license to practice engineering in this state.

Section 6. Qualifications of applicant for certification as engineer intern. An applicant who meets any of the following sets of requirements must be granted a certificate as an engineer intern:

(1) a baccalaureate or master's degree in engineering or engineering technology in a curriculum approved by the board, passage of the fundamentals of engineering examination, and references as required by the board; or

(2) a baccalaureate degree in a science curriculum other than a board-approved engineering or engineering technology curriculum, passage of the fundamentals of engineering examination, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board. An applicant approved for certification pursuant to this subsection is eligible for licensure as a professional engineer only under [section 5(1)(c)].

(3) Certification as an engineer intern does not authorize the holder to practice as a professional engineer.

Section 7. Qualifications of applicant for examination and licensure as professional land surveyor. (1) An applicant who meets any of the following sets of requirements must be admitted to the principles and practices of surveying examination and the Montana state-specific land surveyor examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 4 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 3 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 10 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 6 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board.

(2) Upon passage of both examinations, the applicant must be granted a license to practice land surveying in this state.

Section 8. Qualifications of applicant for examination and certification as land surveyor intern. (1) An applicant who meets any of the following sets of requirements must be admitted to the fundamentals of surveying examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience in charge of land surveying projects, and references and exhibits as required by the board.

(2) Upon passage of the fundamentals of surveying examination, an applicant must be granted a certificate as a Montana land surveyor intern.

(3) Certification as a land surveyor intern does not authorize the holder to practice as a professional land surveyor.

Section 9. Examinations — fees — third-party services. (1) Examinations will be at times and places established by the board or by a third-party examination services provider. The board recognizes the following examinations for licensure or certification:

(a) the fundamentals of engineering examination;

(b) the principles and practices of engineering examination;

(c) the fundamentals of surveying examination;

(d) the principles and practices of surveying examination; and

(e) the Montana state-specific land surveyor examination.

(2) The fees for examinations shall be set by the board or by a third party contracted by the board to provide examination services. The board may charge a fee for reexamination, a rescheduling of an examination, or an additional examination not required for licensure or certification.

(3) The board may use a third party to provide examination and grading services.

(4) The board reserves the right to require applicants to meet all requirements for licensure or certification prior to being admitted to an exam but may waive this requirement as part of an agreement with a third-party examination services provider.

(5) All examination fees are nonrefundable.

Section 10. Section 37-67-312, MCA, is amended to read:

"37-67-312. Licensure of professional engineers without examination by comity ~~or endorsement~~. ~~(1) A person holding a certificate of registration to engage in the practice of engineering issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, may upon application be licensed without further examination.~~

~~(2) A person holding a certificate of qualification issued by the committee on national engineering certification of the national council of examiners for engineering and surveying and whose qualifications meet the requirements of this chapter may upon application be licensed without further examination.~~

~~(3)~~ A person holding a license *or certificate of registration* to engage in the practice of engineering in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in ~~37-67-306~~ *[section 5]*, and ~~has taken and passed the examinations provided for in 37-67-306 and 37-67-311~~ *has passed the principles and practices of engineering examination*. ~~The experience requirements of 37-67-306 may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice engineering.~~ *An applicant whose initial licensure in another state does not meet the experience requirements of [section 5] must be required to demonstrate 2 years of postlicensure experience for each year of prelicensure deficiency.*"

Section 11. Section 37-67-313, MCA, is amended to read:

"37-67-313. ~~Comity consideration for land surveyors from other states~~ *Licensure of professional land surveyors by comity*. ~~(1) A person holding a certificate of registration to engage in the practice of land surveying issued by a proper authority of a state, territory, or possession of the United States or the District of Columbia, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, will be given comity consideration. However, the person may be asked to meet the conditions for taking examinations and to take them as the board considers necessary to determine the person's qualifications. In any event, the person shall pass a written examination that includes questions on laws, procedures, and practices pertaining to the practice of land surveying in this state.~~

~~(2)~~ A person holding a license *or certificate of registration* to engage in the practice of land surveying in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in ~~37-67-309~~ *[section 7]*, ~~has taken and passed the examinations provided for in 37-67-309 and 37-67-311, and has taken and passed a written examination that includes questions on laws, procedures, and practices pertaining to the practice of land surveying in this state~~ *and has passed the principles and practices of surveying examination and the Montana state-specific land surveyor examination*. The experience requirements of ~~37-67-309~~ *[section 7]* may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice land surveying. *An applicant whose initial licensure in another state does not meet the experience requirements of [section 7] must be required to demonstrate 2 years of postlicensure experience for each year of prelicensure deficiency.*"

Section 12. Section 37-67-314, MCA, is amended to read:

"37-67-314. Issuance of licenses — seal of professional engineer or professional land surveyor — ~~enrollment card for interns~~. (1) The department shall issue to an applicant who, in the opinion of the board, has met the requirements of this chapter a license ~~giving the licensee proper authority~~ *authorizing the applicant* to engage in the practice of engineering or the practice of land surveying and to assume responsible charge of engineering or land surveying projects in this state. The license for a professional engineer must carry the designation "professional engineer" and for a professional land surveyor~~,~~ "professional land surveyor"~~. It must give~~ *and must include* the full

name and ~~serial~~ *license* number of the licensee ~~and must be signed by the presiding officer and the secretary under the seal of the board~~.

~~(2) A license is prima facie evidence that the named person is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while the license remains unrevoked or unexpired.~~

~~(3) Each licensee may, upon licensure, obtain a seal of a design authorized by the board, bearing the licensee's name, serial number, and the legend "professional engineer" or "professional land surveyor". Plans, specifications, plats, drawings, reports, design information, and calculations prepared by a licensee must be signed with a written signature, dated, and stamped with the seal or a seal facsimile when issued. After the expiration of a license, it is unlawful for the licensee whose license has lapsed to affix or permit the seal and signature or seal facsimile to be affixed to any:~~

~~(a) plans, specifications, plats, drawings, reports, design information, or calculations; or~~

~~(b) projects for which the licensee was not in responsible charge.~~

~~(4) The department shall issue to any applicant who, in the opinion of the board, has met the requirements of this chapter an enrollment card as an engineer intern or land surveyor intern. The enrollment card must indicate that the applicant's name and status has been recorded with the board. The enrollment card does not authorize the holder to practice as a professional engineer or professional land surveyor.~~

(2) Each licensee may, upon licensure, obtain a seal of a design authorized by the board. The licensee shall sign, date, and seal professional or technical documents created in the practice of professional engineering or professional land surveying.

(3) A license is prima facie evidence that the named person is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while the license remains valid.

(4) It is unlawful for a licensee whose license has expired to sign or seal any professional or technical document or be in responsible charge of a professional engineering or professional land surveying project."

Section 13. Certificate of authorization. (1) A business entity registered with the Montana secretary of state:

(a) shall obtain a certificate of authorization from the board before engaging in the practice of professional engineering or professional land surveying; and

(b) may engage in the practice of professional engineering or professional land surveying in this state if at least one employee of the business entity is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(2) A business entity with one or more branch offices or business locations in Montana shall apply for a certificate of authorization for the main office and list each branch office or business location and at least one employee of the business entity who is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(3) A sole proprietor who is not required to register with the Montana secretary of state is not required to apply for a certificate of authorization.

Section 14. Emeritus status. On October 1, 2015, any licensee previously approved for emeritus status under this chapter becomes an inactive licensee subject to rules of the board regarding inactive licensee status.

Section 15. Section 37-67-331, MCA, is amended to read:

"37-67-331. Revocation, suspension, ~~or refusal to renew license~~ *restriction, or limitation of license* — grounds — ~~procedure — reinstatement.~~ ~~(1)~~ The board may reprimand a licensee or revoke, suspend, or ~~refuse to renew~~ *restrict or limit* the license of a licensee found responsible for:

~~(a) fraud or deceit in obtaining a license;~~

~~(b)~~*(1)* gross negligence, incompetency, or misconduct in the practice of *professional* engineering or *professional* land surveying ~~as a licensed professional engineer or professional land surveyor~~;

~~(c) a felony;~~

~~(d)~~*(2)* a violation of rules for professional conduct for professional engineers and professional land surveyors adopted by the board; *or*

~~(e)~~*(3)* failing to comply with ~~the Corner Recordation Act if the person is a professional land surveyor~~ *state laws and rules pertaining to the practice of professional engineering or professional land surveying*.

~~(2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct against a licensee. The charges must be made by affidavit, subscribed and sworn to by the person making them, and filed with the department. The charges must be investigated by the board. For purposes of investigation under this section, the board may require that a licensee meet with the board.~~

~~(3) The board may require a licensee to take a written or oral examination, or both, in a proceeding to reprimand the licensee or to revoke, suspend, or refuse to renew the license.~~

~~(4) If, after a hearing, five or more members of the board vote in favor of sustaining the charges, the board shall reprimand the licensee or suspend, refuse to renew, or revoke the license of the licensed professional engineer or professional land surveyor.~~

~~(5) The board, for reasons it considers sufficient, may reissue a license to a person whose license has been revoked if five or more members of the board vote in favor of the reissuance.~~"

Section 16. Repealer. The following sections of the Montana Code Annotated are repealed:

37-67-302. Practice without a license a public nuisance.

37-67-303. Application — contents — examination — fees.

37-67-305. General qualifications of applicants for licensure as professional engineer or certification as engineer intern.

37-67-306. Qualifications of applicant for licensure as professional engineer.

37-67-307. Qualifications of applicant for registration as engineer intern.

37-67-308. General qualifications of applicants for licensure as professional land surveyor or certification as land surveyor intern.

37-67-309. Qualifications of applicant for licensure as professional land surveyor.

37-67-310. Qualifications of applicant for certification as land surveyor intern.

37-67-311. Examinations — fees — third-party services.

37-67-320. Sole proprietorships, firms, partnerships, and corporations — requirements — exceptions.

37-67-321. Emeritus status.

Section 17. Codification instruction. [Sections 4 through 9, 13, and 14] are intended to be codified as an integral part of Title 37, chapter 67, part 3, and the provisions of Title 37, chapter 67, part 3, apply to [sections 4 through 9, 13, and 14].

Section 18. Effective date. [This act] is effective on passage and approval.

Approved February 12, 2015

CHAPTER NO. 5

[HB 82]

AN ACT ALLOWING DEVELOPMENT OF A BOAT DOCK AT WILD HORSE ISLAND STATE PARK; AND AMENDING SECTION 77-1-405, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-405, MCA, is amended to read:

"77-1-405. Island parks established — development limited. (1) In order to retain the integrity of the recreational experience associated with Montana's river and lake islands, development of undisputed state-owned or state-leased island property, which is hereby designated as island parks, including islands designated as state property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April 30, 1997, to:

(a) the installation of minimal signage indicating that the island is a designated island park in which development has been limited and encouraging the public to help in maintaining the island park's primitive character by packing out trash;

(b) necessary latrine facilities if approved by the state parks and recreation board established in 2-15-3406;

(c) footings or pilings necessary for the construction of a bridge; ~~and~~

(d) oil and gas leasing*; and*

(e) development of a boat dock at Wild Horse Island state park.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive *a* state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Approved February 13, 2015

CHAPTER NO. 6

[HB 121]

AN ACT EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-5-205, MCA, is amended to read:

"17-5-205. Application. The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to ~~February 18, 2013~~ *[the effective date of this act]*."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 13, 2015

CHAPTER NO. 7

[HB 125]

AN ACT REVISING A DEFINITION CONCERNING STATE AGENCY EXPENDITURES TO REFLECT A TERMINOLOGY CHANGE BY THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD; AMENDING SECTION 17-8-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-8-107, MCA, is amended to read:

"17-8-107. Limitations on spending deferred ~~revenue~~ *inflows of resources* — exception — *definition.* (1) Except as provided in subsection (2), no agency, including any unit of the university system, may expend deferred ~~revenue~~ *inflows of resources* for current fiscal year operations. ~~For purposes of this section, "deferred revenue" means funds received in one fiscal year but properly allocable and recorded as revenue in the subsequent fiscal year.~~

(2) The Montana historical society is exempt from the provisions of subsection (1) to the extent that the expenditure of deferred ~~revenue~~ *inflows of resources* received from magazine subscription fees is necessary to finance current fiscal year operations for the publication of its magazine of western history.

(3) For purposes of this section, "deferred inflows of resources" means funds received in one fiscal year but properly allocable and recorded as revenue in the subsequent fiscal year."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 13, 2015

CHAPTER NO. 8

[HB 31]

AN ACT REVISING SCHOOL FINANCE LAWS; CLARIFYING THE RATIO OF SPECIAL EDUCATION ALLOWABLE COST PAYMENT USED TO CALCULATE A DISTRICT'S MAXIMUM GENERAL FUND BUDGET; DEFINING "GUARANTEED TAX BASE AID BUDGET AREA"; CLARIFYING THE FORMULA FOR DETERMINING THE STATEWIDE ELEMENTARY

GUARANTEED TAX BASE RATIO AND THE STATEWIDE HIGH SCHOOL GUARANTEED TAX BASE RATIO; CLARIFYING THE FORMULA USED TO CALCULATE A DISTRICT'S GUARANTEED TAX BASE AID; PERMITTING TRUSTEES TO PURCHASE AND MAINTAIN COMMUNICATION SYSTEMS OR SAFETY DEVICES FOR BUSES OWNED OR RENTED BY THE SCHOOL DISTRICT; EXPANDING THE USE OF THE BUS DEPRECIATION RESERVE FUND TO INCLUDE COMMUNICATION SYSTEMS AND SAFETY DEVICES INSTALLED ON A BUS; AMENDING SECTIONS 20-9-306, 20-9-366, 20-9-368, 20-10-107, AND 20-10-147, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) ~~starting in fiscal year 2015,~~ the natural resource development K-12 funding payment for a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district, as referenced in subsection (10);

(c) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(d) the total quality educator payment;

(e) the total at-risk student payment;

(f) the total Indian education for all payment;

(g) the total American Indian achievement gap payment; and

(h) the total data-for-achievement payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) $290,000 for fiscal years 2014 and 2015 and $300,000 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) $290,000 for fiscal years 2014 and 2015 and $300,000 for each succeeding fiscal year for school districts with an ANB of more than 800, plus $12,000 for fiscal years 2014 and 2015 and $15,000 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) $40,000 for fiscal years 2014 and 2015 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) $40,000 for fiscal years 2014 and 2015 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus $2,000 for fiscal years 2014 and 2015 and $2,500 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) $40,000 for fiscal years 2014 and 2015 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) $40,000 for fiscal years 2014 and 2015 and $50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus $2,000 for fiscal years 2014 and 2015 and $2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) $80,000 for fiscal years 2014 and 2015 and $100,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) $80,000 for fiscal years 2014 and 2015 and $100,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus $4,000 for fiscal years 2014 and 2015 and $5,000 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of *the district's special education allowable cost payment multiplied by*:

(a) 175% ~~of special education allowable cost payments~~; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Natural resource development K-12 funding payment" means the payment~~, starting in fiscal year 2015,~~ of a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district. The total payment to school districts may not exceed the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided, plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The amount of the natural resource development K-12 funding payment must be determined as follows:

(a) for fiscal year 2015, $3 million; and

(b) for fiscal year 2016 and each subsequent year, the payment must be, subject to the limitations of this subsection (10), an amount sufficient to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The superintendent of public instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with this subsection (10)(b) in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112.

(11) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(14) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $6,555 for fiscal year 2014 and $6,691 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of $5,120 for fiscal year 2014 and $5,226 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB,

with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of $5,120 for fiscal year 2014 and $5,226 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $6,555 for fiscal year 2014 and $6,691 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total data-for-achievement payment" means the payment calculated as provided in 20-9-325.

(17) "Total quality educator payment" means the payment resulting from multiplying $3,042 by the number of full-time equivalent educators as provided in 20-9-327."

Section 2. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' ~~current~~ *prior* year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326, divided by the ~~sum of the~~ district's ~~current year BASE budget amount less direct state aid and the state special education allowable cost payment~~ *prior year GTBA budget area*.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's ~~current~~ *prior* year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' ~~current~~ *prior* year total per-ANB entitlement amounts.

(4) "Guaranteed tax base aid budget area" or "GTBA budget area" means the portion of a district's BASE budget after the following payments are subtracted:

(a) direct state aid;

(b) the total data-for-achievement payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment;

(f) the total American Indian achievement gap payment; and

(g) the state special education allowable cost payment.

~~(4)~~*(5)* (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 193% and divided by the ~~total sum of either the state elementary school districts' or the high school districts' current year BASE budget amounts less total direct state aid~~ *prior year statewide GTBA budget area for the state elementary school districts or the state high school districts*.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' ~~current~~ *prior* year total per-ANB entitlement amounts."

Section 3. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid that a district may receive in support of up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment is calculated in the following manner:

(a) multiply the sum of the district's ~~BASE budget amount less direct state aid~~ *prior year GTBA budget area* by the corresponding statewide guaranteed tax base ratio;

(b) subtract the *prior year* taxable valuation of the district from the product obtained in subsection (3)(a); and

(c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 4. Section 20-10-107, MCA, is amended to read:

"20-10-107. Power of trustees. The trustees of any district ~~shall have the power to~~ *may*:

(1) purchase or rent a school bus;

(2) purchase or rent a ~~two-way radio~~ *communication system or safety device* for a school bus when the trustees authorize a ~~two-way radio~~ *communication system or safety device* as standard equipment in a school bus because ~~such~~ *the* bus is operated where weather and road conditions may constitute a hazard to the safety of the school pupil passengers;

(3) provide for the operation, maintenance, and insurance of a school bus or a ~~two-way radio~~ *communication system or safety device* owned or rented by the district; or

(4) contract with a private party for the transportation of eligible transportees~~, and such~~. *The* contract ~~shall~~ *may* not exceed the term of 5 years."

Section 5. Section 20-10-147, MCA, is amended to read:

"20-10-147. Bus depreciation reserve fund. (1) The trustees of a district owning a bus ~~or a two-way radio~~ used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or ~~radio~~ *communication systems and safety devices installed on the bus, including but not limited to global positioning systems, cameras, and two-way radios*. The trustees of a district may also use the bus depreciation reserve fund to purchase an additional bus for purposes of transportation, as defined in 20-10-101.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or ~~a two-way radio~~ *communication systems and safety devices installed on the bus*. The amount budgeted may not, over time, exceed 150% of the original cost of a bus or ~~two-way radio~~ *communication systems and safety devices installed on the bus*. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses, to replace the buses or ~~radios~~ *communication systems and safety devices installed on the bus*, or for the purchase of an additional bus as provided in subsection (1), for which the bus depreciation reserve fund was created."

Section 6. Effective date. [This act] is effective July 1, 2015.

Approved February 13, 2015

CHAPTER NO. 9

[HB 56]

AN ACT REVISING THE VALUATION OF CERTAIN CLASS THREE AGRICULTURAL PROPERTY; AMENDING SECTION 15-7-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land *that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting* of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana

agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to $1,500 in annual gross income as determined by the Montana state university-Bozeman department of agricultural economics and economics.

~~(4) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.~~

~~(5) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.~~

~~(6)~~*(4)* The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

~~(7)~~*(5)* The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

~~(8)~~*(6)* For the purposes of this part, growing timber is not an agricultural use."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 17, 2015

CHAPTER NO. 10

[HB 64]

AN ACT ADOPTING THE MOST RECENT APPLICABLE FEDERAL MILITARY LAWS, INCLUDING THE UNIFORM CODE OF MILITARY JUSTICE, THAT ARE APPLICABLE TO THE MONTANA NATIONAL GUARD; AMENDING SECTION 10-1-104, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-104, MCA, is amended to read:

"10-1-104. Federal regulations to govern. (1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the national guard, as in effect on October 1, ~~2013~~ *2015*, insofar as they are applicable and not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to 10-1-105, apply to and govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code.

(2) The Uniform Code of Military Justice, as in effect on October 1, ~~2013~~ *2015*, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the code, is adopted for use by the national guard of this state and applies, insofar as the code is not otherwise inconsistent with the constitution and laws of this state, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state, or with a rule or regulation adopted pursuant to 10-1-105, to the greatest extent practicable to govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Applicability. [This act] applies to events that occur and proceedings begun on or after October 1, 2015.

Approved February 17, 2015

CHAPTER NO. 11

[HB 65]

AN ACT REQUIRING THAT LOCAL GOVERNMENTS SUBMIT FEES FOR SPECIAL AUDITS OR REVIEWS TO THE STATE TREASURER RATHER THAN THE DEPARTMENT OF REVENUE; AMENDING SECTION 2-7-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-7-503, MCA, is amended to read:

"2-7-503. Financial reports and audits of local government entities. (1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3), but regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the ~~department of revenue~~ *state treasurer* and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 17, 2015

CHAPTER NO. 12

[HB 66]

AN ACT REVISING BANKING LAWS RELATED TO DOCUMENTS SUBMITTED TO THE DEPARTMENT OF ADMINISTRATION AND COURTS; PROVIDING THAT CALL REPORTS ELECTRONICALLY TRANSMITTED TO FEDERAL BANKING AUTHORITIES SATISFY THE REQUIREMENT FOR TRANSMITTAL TO THE DEPARTMENT; ELIMINATING THE DEPARTMENT'S OBLIGATION TO REQUISITION CALL REPORTS; REQUIRING PERMANENT RETENTION BY BANKS OF CALL REPORT SIGNATURE PAGES; CLARIFYING CONFIDENTIALITY OF CERTAIN REPORTS; ELIMINATING THE CERTIFICATION OF A FIDUCIARY FOREIGN TRUST COMPANY'S PAID-IN CAPITAL AS AN ALTERNATIVE TO FILING A BOND; ELIMINATING THE PENALTY FOR FAILING TO MAKE A CALL REPORT; AMENDING SECTIONS 32-1-231, 32-1-232, 32-1-233, 32-1-234, AND 32-1-1005, MCA; AND REPEALING SECTION 32-1-235, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-1-231, MCA, is amended to read:

"32-1-231. Reports to department. ~~(1) The department shall call for the reports specified in this section at least three times each year.~~

~~(2)~~*(1)* A bank shall make to the department regular call reports *at least three times each year* according to the form that may be prescribed by the department, verified by oath or affirmation of the president, vice president, or cashier of the bank and attested by the signature of at least two of the directors other than the subscribing officer.

~~(3)~~*(2)* Each *call* report must exhibit in detail, and under appropriate schedules, the resources and liabilities of the bank at the close of business on any past day specified by the department. The "past day specified" by the department, under the provisions of this section, must be the day designated by the comptroller of currency of the United States for reports of national banking associations.

~~(4)~~*(3)* The *call* report must be transmitted to the department within 30 days after the ~~receipt of a request or requisition for it and must be in a form that the department may require~~ *past day specified under subsection (2). A bank's successful and timely electronic transmittal of its call report to the applicable federal banking regulator or authority satisfies the bank's obligation to transmit the report to the department. The original signature page of the bank's call report that complies with subsection (1) must be permanently retained by the bank and available for the department's review. A nondepository trust company that is not*

insured by the federal deposit insurance corporation shall transmit its call report directly to the department in hard copy or imaged form."

Section 2. Section 32-1-232, MCA, is amended to read:

"32-1-232. Report of declaration of dividend. In addition to the *call* report required by 32-1-231, a bank shall report to the department within 10 days after declaring any dividend, showing the amount of the dividend and the amount of net earnings in excess of the dividend. The report shall be attested as provided in 32-1-231."

Section 3. Section 32-1-233, MCA, is amended to read:

"32-1-233. Special reports to department. In addition to the information obtained from the *call* report required by 32-1-231, the department may also require a bank to furnish a special report in writing, verified as required by 32-1-231, when in its judgment the special report is necessary to inform it fully of the actual financial condition and affairs of the bank. A willfully false statement in the report is perjury and shall be punished accordingly."

Section 4. Section 32-1-234, MCA, is amended to read:

"32-1-234. Confidentiality — penalties. (1) (a) ~~The report and any information contained in the reports and statements provided for, other than those reports which are required to be published, must be considered secret and for the confidential information of the department only.~~ ~~The~~ *Reports and statements under 32-1-211, 32-1-215, 32-1-216, 32-1-231, 32-1-232, and 32-1-233 are confidential. Except for information made public by the federal deposit insurance corporation or other federal banking authority's publicly accessible website, any information contained in the reports and statements, the source documents from which this information is derived, and communications concerning reports and statements are confidential. Except as provided in subsection (1)(b), confidential* information may not be ~~imparted~~ *disclosed* to persons who are not officially associated with the department~~,~~ and ~~the information contained in the reports and statements~~ may be used by the department only ~~in the furtherance of~~ *to further* its official duties.

(b) The department may exchange information with federal financial institution regulatory agencies and with the financial regulatory departments of other states. The department may furnish information to the legislative auditor for use in pursuit of official duties. A prosecuting official may obtain the information by court order.

(2) Any knowledge or information gained or discovered by the department in pursuance of its powers or duties is confidential information of the department. The information may not, except as provided in subsection (1)(b), be ~~imparted~~ *disclosed* to any person not officially associated with the department. The information must be used by the department only ~~in the furtherance of~~ *to further* its official duties.

(3) An employee or agent of the department who violates this section or willfully makes a false official report as to the condition of a bank must be removed from office and is also guilty of a felony. Upon conviction, the person shall be fined an amount not exceeding $1,000, imprisoned in a state correctional facility for a term not exceeding 5 years, or both."

Section 5. Section 32-1-1005, MCA, is amended to read:

"32-1-1005. Bond. Before accepting an appointment or acting as a trustee, guardian, or conservator, a foreign trust company shall file a bond with a court of competent jurisdiction in an amount ~~as~~ *that* the court directs, with sufficient sureties, conditioned on the faithful discharge of its duties as trustee, guardian,

or conservator. ~~In lieu of the bond, the foreign trust company shall certify, in a manner acceptable to the department, that the capital stock of the foreign trust company is fully paid in cash, on deposit with an appropriate bank, and is of an amount that is certified sufficient by the foreign trust company's primary regulator for the foreign trust company's proposed business activities in this state. The deposit must be maintained until the foreign trust company ceases to act as trustee, guardian, or conservator under this part.~~ A foreign trust company is not required to file a bond ~~or certify the deposit of its capital~~ with respect to a trust, other than a trust created by a will, if the trust instrument requests or directs that a bond is not required of the trustee."

Section 6. Repealer. The following section of the Montana Code Annotated is repealed:

32-1-235. Penalty for failure to make report within 30 days.

Approved February 17, 2015

CHAPTER NO. 13

[HB 75]

AN ACT CREATING A SEXUAL ASSAULT PROSECUTION UNIT WITHIN THE DEPARTMENT OF JUSTICE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Sexual assault prosecution unit. (1) There is a sexual assault prosecution unit in the prosecution services bureau of the department of justice. The unit is under the supervision and control of the attorney general and, subject to the availability of appropriated funds, consists of the agents and employees of the department whom the attorney general considers necessary and appropriate, including but not limited to at least two people who are licensed to practice law in Montana and who are qualified by education, training, experience, and high professional competence to prosecute sexual assault crimes.

(2) The sexual assault prosecution unit shall assist and train county attorneys and local law enforcement in the prosecution of sexual assault crimes.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

Approved February 17, 2015

CHAPTER NO. 14

[HB 79]

AN ACT REVISING EXEMPTIONS FOR ELECTRICIANS AND PLUMBERS RELATED TO APPRENTICESHIPS AND CERTAIN STUDENTS ENROLLED IN ACCREDITED COLLEGE OR UNIVERSITY ELECTRICAL OR PLUMBING COURSES; AMENDING SECTIONS 37-68-103, 37-68-311, AND 37-69-102, MCA; REPEALING SECTIONS 37-68-303 AND 37-69-302, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-68-103, MCA, is amended to read:

"37-68-103. Exemptions. (1) This chapter does not apply to the installation, alteration, or repair of electrical signal or communications equipment owned or operated by a public utility or a city. For purposes of this exemption, "communications equipment" includes telephone wire inside a customer's premises. This chapter does not prohibit a public utility from doing inside wiring to install, alter, repair, or maintain electrical equipment, installations, or facilities in buildings owned by the public utility if the work is accomplished by an employee who is a licensed electrician. If the building owned by the public utility is open to the public and the inside wiring constitutes major renovation or construction, the installation, alteration, repair, or maintenance of electrical equipment, installations, or facilities is subject to the permits and inspections required by law.

(2) The licensing or inspection provisions of this chapter do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer or to line work on the business premises of the employer when ordinary and customary in-plant or onsite installations, modifications, additions, or repairs are performed.

(3) This chapter does not require an individual to hold a license to perform electrical work on the individual's own property or residence if the property or residence is maintained for the individual's own use.

(4) An individual, firm, partnership, or corporation may apply for licensure as an electrical contractor if all electrical work performed by the individual, firm, partnership, or corporation is under the direction, control, and supervision of a licensed master electrician or under the direction, control, and supervision of a licensed journeyman electrician for residential construction consisting of less than five living units in a single structure.

(5) A person who plugs in an electrical appliance where an approved electrical outlet is already installed may not be considered an installer.

(6) This chapter may not in any manner interfere with, hamper, preclude, or prohibit a vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure in which the appliance is to be connected.

(7) (a) The licensing and inspection provisions of this chapter do not apply to an apprentice, as that term is defined in 39-6-101, who is working under the supervision of a licensed electrician.

(b) Subsection (7)(a) includes an exemption for a person serving in an approved journeyman apprenticeship program or a residential apprenticeship program during training if serving under the supervision of a licensed electrician.

(8) The licensing provisions of this chapter do not apply to a student who is enrolled in an electrician training program offered by an accredited college or university recognized by the board of regents if the student is undertaking class assignments in a classroom or a hands-on laboratory setting. This subsection (8) does not authorize a student to engage in any electrical work that will be incorporated or used in an occupied structure."

Section 2. Section 37-68-311, MCA, is amended to read:

"37-68-311. Application fee — license fee — ~~specific exemption for apprentices~~. (1) Master electricians and journeyman or residential electricians installing or intending to install for hire electric wiring or equipment to convey electric current or apparatus to be operated by electric

current shall apply for a license to the department. The application must be on a form furnished by the department and must be accompanied by an application fee set by the board. The forms must state the applicant's full name and address, the extent of work experience, and other information required by the board. If the applicant has complied with the rules adopted by the board and, being qualified, has successfully completed the examination, the department shall issue the proper license to the applicant.

~~(2) A person serving in an approved journeyman apprenticeship program or a residential apprenticeship program under the supervision of a licensed electrician is exempt from the licensing provision of this section during training.~~

~~(3)~~*(2)* In addition to the temporary permits authorized in 37-1-305, the board may, in accordance with criteria determined by the board, issue a second temporary practice permit for a person who fails the first license examination and who submits a temporary practice permit fee with a request for a second temporary practice permit to the board stating that the person intends to retake the license examination within 3 months of failing the first examination."

Section 3. Section 37-69-102, MCA, is amended to read:

"37-69-102. Permanent and temporary exceptions. (1) Licensure is not required in the following instances of plumbing installation:

(a) when an owner of a single-family residence used exclusively for the owner's personal use installs all sanitary plumbing and potable water supply piping or when a mobile home dealer or a manufactured housing dealer connects a mobile home or a manufactured house to existing sanitary and potable water supply facilities as part of delivering and setting up a mobile home for a purchaser;

(b) in any mine, mill, smelter, refinery, or railroad;

(c) in a farm or ranch not connected to public water supply and sewage disposal systems. For the purposes of this subsection (1)(c), a "farm or ranch" means the same as in 39-3-402.

(d) in cities, towns, water districts, and water user associations extending, repairing, or replacing their own water and sewer mains;

(e) installation of water conditioner services in private dwellings;

(f) minor work by employees or agents of an appliance dealer incidental to the installation of an appliance purchased from the dealer;

(g) installation of a water meter by a qualified person appointed by the administrative authority of the water system; ~~and~~

(h) in the case of a private water supply, installation of the pump, waterline, or pressure tank, regardless of whether the pump, waterline, or pressure tank is located inside or outside the structure being served*;*

(i) in the case of an apprentice, as that term is defined in 39-6-101, who is working under the supervision of a licensed plumber; and

(j) in the case of a student who is enrolled in a plumbing training program offered by an accredited college or university recognized by the board of regents if the student is undertaking class assignments in a classroom or a hands-on laboratory setting. This subsection (1)(j) does not authorize a student to engage in any plumbing work that will be incorporated or used in an occupied structure or connected to a plumbing system where work must be performed by a licensed plumber.

(2) This chapter may not be construed to apply to or to affect plumbing installations in any mines, mills, smelters, refineries, public utilities, railroads,

or plumbing installations on farms or ranches not connected to public water supply or sewage disposal systems.

(3) If a licensed person is not available, the council or commission of a county, city, or town or the board of directors or managers of a water or sewer district or water utility may, by ordinance, rule, or resolution, authorize an unlicensed person to perform plumbing work on a temporary basis if:

(a) the council, commission, or board of directors has provided reasonable notice by certified letter to the board; and

(b) the board has approved the temporary authorization or has failed to respond to the certified letter required under subsection (3)(a) within 30 days of the letter's postmark.

(4) The council, commission, board of directors, or board shall withdraw the temporary authorization provided for in subsection (3) when a licensed person is reasonably available."

Section 4. Repealer. The following sections of the Montana Code Annotated are repealed:

37-68-303. Apprentice may work under licensed electrician — record of apprentices.

37-69-302. Apprenticeship allowed.

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved February 17, 2015

CHAPTER NO. 15

[HB 81]

AN ACT PROVIDING FOR A BARBERING NONCHEMICAL LICENSE; PROVIDING RULEMAKING AUTHORITY TO IMPLEMENT THE SCOPE OF PRACTICE AND REGULATIONS FOR THE BARBERING NONCHEMICAL LICENSE AND SCHOOLS THAT TEACH BARBERING NONCHEMICAL; AND AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-103, 37-31-203, 37-31-301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, 37-31-331, 37-33-404, AND 49-2-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1747, MCA, is amended to read:

"2-15-1747. Board of barbers and cosmetologists. (1) There is a board of barbers and cosmetologists.

(2) The board consists of nine members appointed by the governor with the consent of the senate and must include:

(a) three licensed cosmetologists each of whom has been a resident of this state for a least 5 years and has been actively engaged in the profession of cosmetology for at least 5 years immediately prior to being appointed to the board;

(b) one member who has been a resident of this state for at least 5 years and has been actively engaged as a licensed electrologist, esthetician, or manicurist for at least 5 years immediately prior to being appointed to the board;

(c) three licensed barbers *or barbers nonchemical* each of whom has been a resident of this state for at least 5 years and has been actively engaged in the

profession of barbering for at least 5 years immediately prior to appointment to the board; and

(d) two members of the public who are not engaged in the practice of barbering, cosmetology, electrology, esthetics, or manicuring.

(3) Two members of the board must be affiliated with a school.

(4) (a) If there is not a licensed barber *or a barber nonchemical who is* qualified and willing to serve on the board in one of the three ~~barber~~ positions *under subsection (2)(c)*, the governor may appoint a cosmetologist, electrologist, esthetician, or manicurist otherwise qualified under this section to fill the position.

(b) If there is not a licensed cosmetologist qualified and willing to serve on the board in one of the three ~~cosmetologist~~ positions *under subsection (2)(a)*, the governor may appoint a barber*, barber nonchemical*, electrologist, esthetician, or manicurist otherwise qualified under this section to fill the position.

(5) Each member shall serve for a term of 5 years. The terms must be staggered.

(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 2. Section 37-31-101, MCA, is amended to read:

"37-31-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.

(2) "Booth" means any part of a salon or shop that is rented or leased for the performance of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring services, as specified in 39-51-204.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) (a) "Electrology" means the study of and the professional practice of permanently removing superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle. Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the use of chemical depilatories.

(b) Electrology does not include pilethermology, which is the study and professional practice of removing superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

(5) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(6) "Esthetics" means skin care of the body, including but not limited to hot compresses or the use of approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.

(7) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and the application and maintenance of artificial nails.

(8) "Place of residence" means a home and the following residences defined under 50-5-101:

(a) an assisted living facility;

(b) an intermediate care facility for the developmentally disabled;

(c) a hospice;

(d) a critical access hospital;

(e) a long-term care facility; or

(f) a residential treatment facility.

(9) "Practice or teaching of barbering" means any of the following practices performed for payment, either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of disease or physical or mental ailments:

(a) shaving or trimming a beard;

(b) cutting, styling, coloring, or waving hair;

(c) straightening hair by the use of chemicals;

(d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations applied by hand or mechanical appliance;

(e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or

(f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands, or neck.

(10) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as provided in subsection (9) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight hair.

~~(10)~~*(11)* (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing", "manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.

(b) The practice and teaching of cosmetology may not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state of Montana as a store or place of business.

~~(11)~~*(12)* (a) "Salon or shop" means the physical location in which a person licensed under this chapter practices barbering *or barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring.

(b) The term does not include a room provided in a place of residence that is used for the purposes of barbering *or barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring unless the owner, manager, or operator allows the room to be used for the practice of barbering *or barbering nonchemical* or the practice of cosmetology to serve nonresidents for compensation, in which case the room must be licensed as a salon or a shop.

~~(12)~~*(13)* "School" means a program and location approved by the board with respect to its course of instruction for training persons in barbering*, barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring and that meets any other criteria established by the board."

Section 3. Section 37-31-103, MCA, is amended to read:

"37-31-103. Purpose. It is a matter of legislative policy in the state of Montana that the practice of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, and manicuring affects the public health, safety, and welfare and is subject to regulation and control in order to protect the public from unauthorized and unqualified practice."

Section 4. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall prescribe rules for:

(1) the conduct of board business;

(2) the qualification and licensure of applicants to practice barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring or to teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring;

(3) the regulation and instruction of apprentices and students;

(4) the conduct of schools of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, and manicuring for apprentices and students;

(5) the qualification and licensure of applicants for booth rental licenses; and

(6) generally the conduct of the persons, firms, or corporations affected by this chapter."

Section 5. Section 37-31-301, MCA, is amended to read:

"37-31-301. Prohibited acts. (1) Without an appropriate license issued under this chapter, it is unlawful to:

(a) practice barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring for compensation;

(b) own, manage, operate, or conduct a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring;

(c) manage or operate a salon or shop or a booth; or

(d) teach in a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring.

(2) It is unlawful:

(a) for a person who owns, manages, or controls a salon or shop to employ or use an unlicensed person as a barber, *a barber nonchemical, a* cosmetologist, *an* electrologist, *an* esthetician, or *a* manicurist;

(b) to operate a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring without complying with all of the regulations of 37-31-311;

(c) to practice barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring in any place other than in a licensed salon or shop as provided in this chapter, except when a licensee is requested:

(i) by a customer to go to a place other than a licensed salon or shop and is sent to the customer from a licensed salon or shop; or

(ii) by a customer with a disability or homebound customer to go to the customer's place of residence; or

(d) to violate any of the provisions of this chapter."

Section 6. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon or shop, booth, or school. (1) A person may not practice or teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring without a license.

(2) A place may not be used or maintained for the teaching of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring for compensation unless licensed as a school.

(3) A person may not operate or manage a salon or shop without a license or a temporary operating permit as provided in 37-31-312.

(4) A person may not operate or conduct a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring or teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring without a license to teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon or shop shall apply to the department for a license. The application must be accompanied by the license fee.

(7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."

Section 7. Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring shall file an application provided by the department and pass the examination prescribed by the board to qualify for licensure."

Section 8. Section 37-31-304, MCA, is amended to read:

"37-31-304. Qualifications of applicants for license to practice. (1) Before a person may practice:

(a) barbering, the person shall obtain a license to practice barbering from the department;

(b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from the department;

~~(b)~~*(c)* cosmetology, the person shall obtain a license to practice cosmetology from the department;

~~(c)~~*(d)* electrology, the person shall obtain a license to practice electrology from the department;

~~(d)~~*(e)* manicuring, the person shall obtain a license to practice manicuring from the department unless the person is licensed to practice cosmetology; or

~~(e)~~*(f)* esthetics, the person shall obtain a license to practice esthetics from the department unless the person is already licensed to practice cosmetology.

(2) (a) *(i)* To be eligible to take the examination to practice barbering *or barbering nonchemical*, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. ~~The~~

(ii) An applicant *to practice barbering* must have completed a course of study of at least 1,500 hours in a licensed barbering school and must have received a diploma from the barbering school or must have completed the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering prescribed by the board *by rule*.

(iii) An applicant to practice barbering nonchemical must have completed a course of study of at least 1,000 hours in a licensed barbering or barbering nonchemical school, not including hours applicable to the use of chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a diploma from the barbering or barbering nonchemical school or must have

completed the course of study in barbering or barbering nonchemical at a school of cosmetology authorized to offer a course of study in barbering or barbering nonchemical as prescribed by the board by rule.

(b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee with the department and pass an examination as to fitness to practice barbering *or barbering nonchemical*.

(c) The board shall issue a license to practice barbering *or barbering nonchemical*, without examination, to a person licensed in another state if the board determines that:

(i) the other state's course of study hour requirement is equal to or greater than the hour requirement in this state; and

(ii) the person's license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.

(3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at least 2,000 hours in a licensed cosmetology school and must have received a diploma from the cosmetology school or must have completed the course of study in cosmetology prescribed by the board *by rule*.

(b) A person qualified under subsection (3)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice cosmetology.

(4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply to the board for an exception to the requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception. The applicant must have completed a course of education, training, and experience in the field of electrology as prescribed by the board by rule.

(b) A person qualified under subsection (4)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice electrology.

(5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board in a licensed school of cosmetology or a licensed school of manicuring. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent or a certificate of completion from a vocational-technical program. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (5)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice manicuring.

(6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that is recognized by the superintendent of public instruction. The applicant must have completed a course of study prescribed by the board and consisting of not less than 650 hours of training and instruction in a licensed school of cosmetology or a licensed school of esthetics. A person may apply to the board for an exception to the educational requirement of a high school diploma or its equivalent. The board shall adopt by rule procedures for granting an exception.

(b) A person qualified under subsection (6)(a) shall file an application and deposit the required application fee with the department and pass an examination as to fitness to practice esthetics."

Section 9. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach or instruct in a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring, the person shall obtain from the department a license to teach.

(2) To be eligible for a license to teach barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring, a person must:

(a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction;

(b) have a license to practice issued by the department in the particular area of practice in which the person plans to teach;

(c) have been actively engaged in that particular area of practice for 12 continuous months before taking the teacher's examination; and

(d) (i) have received a diploma from a licensed school approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or

(ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license under this subsection (2)(d)(ii) has 2 years to complete board-approved coursework related to teaching methodology before a license to teach is renewed."

Section 10. Section 37-31-308, MCA, is amended to read:

"37-31-308. Exemption for persons with disabilities. A person with a physical disability who is trained for barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring by the department of public health and human services is, for a period of 1 year immediately following graduation, exempt from the examination and the fees described in 37-31-323. On certification from the department of public health and human services that a department of public health and human services beneficiary has successfully completed the required training in a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring, the department shall issue the person the necessary license to practice the profession in this state."

Section 11. Section 37-31-311, MCA, is amended to read:

"37-31-311. Schools — license — requirements — bond — curriculum. (1) A person, firm, partnership, corporation, or other legal entity may not operate a school for the purpose of teaching barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring for compensation unless licensed by the department. Application for the license must be filed with the department on an approved form.

(2) A school for teaching barbering *or barbering nonchemical* may not be granted a license unless the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of barbering *or barbering nonchemical*.

(c) It maintains a school term of not less than 1,500 hours *for barbering and not less than 1,000 hours for barbering nonchemical* and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board *by rule*.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of barbering *or barbering nonchemical*.

(3) A school for teaching cosmetology may not be granted a license unless the school complies with or is able to comply with the following requirements:

(a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision of the work of the school or other teachers determined by the board to be necessary for the proper conduct of the school. There may not be more than 25 students for each teacher.

(b) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of cosmetology.

(c) It maintains a school term of not less than 2,000 hours and a course of practical training and technical instruction equal to the requirements for board examinations. The school's course of training and technical instruction must be prescribed by the board *by rule*.

(d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations before issuing diplomas.

(e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of cosmetology.

(4) A school for teaching electrology may not be granted a license unless the school maintains a school term and a course of practical training and technical instruction prescribed by the board, and possesses apparatus and equipment necessary for teaching electrology as prescribed by the board *by rule*.

(5) A school for teaching manicuring may not be granted a license unless the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the teaching of all subjects or practices of manicuring.

(b) It maintains a school term and a course of practical training and technical instruction as prescribed by the board *by rule*.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of manicuring.

(6) A school for teaching esthetics may not be granted a license unless the school complies with subsections (3)(a) and (3)(d) and the following requirements:

(a) It possesses apparatus and equipment the board determines necessary for the ready and full teaching of all subjects or practices of esthetics.

(b) It maintains a school term and a course consisting of not less than 650 hours of practical training and technical instruction as prescribed by the board.

(c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that would make the room unsanitary a room used wholly or in part for a school of esthetics.

(7) Licenses for schools of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring may be refused, revoked, or suspended as provided in 37-31-331.

(8) A teacher or student teacher may not be permitted to practice barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(9) The board may make further rules necessary for the proper conduct of schools of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, and manicuring.

(10) The board shall require the person, firm, partnership, corporation, or other legal entity operating a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring to furnish a bond or other security in the amount of $5,000 and in a form and manner prescribed by the board *by rule*.

(11) A professional salon or shop may not be operated in connection with a school of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring.

(12) The board may, by rule, establish a suitable curriculum for teachers' training in licensed schools of barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring."

Section 12. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection — temporary permits. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering*, school of barbering nonchemical*, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license.

(2) When an owner or operator applies for a shop or salon license and pays licensure and inspection fees prescribed by the board, the board:

(a) may authorize the department to grant to a new salon or shop a temporary operating permit; or

(b) shall, in order to avoid a disruption of business, authorize the department to grant a temporary operating permit to an existing shop or salon whose owner or operator is currently in good standing with the board, as defined by the board, and who is relocating to a new location. An owner or operator of an existing shop or salon may not receive a temporary operating permit under this section within 90 days of a license renewal date.

(3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon or shop to operate until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted to a salon or shop if the board does not receive a response within 30 days from the date of the inspection or the response received does not indicate that all of the inspection violations have been corrected, in which case a new license application must be filed. A temporary permit is not renewable.

(4) The department shall require an inspector appointed under subsection (1) to conduct an annual inspection of each salon or shop in the state."

Section 13. Section 37-31-323, MCA, is amended to read:

"37-31-323. Fees. (1) Fees for licenses must be paid to the department in amounts prescribed by the board *by rule*.

(2) The license fees must be paid in advance to the department unless otherwise provided by board rule.

(3) Other or additional license fees may not be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of barbering*, barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring."

Section 14. Section 37-31-331, MCA, is amended to read:

"37-31-331. Refusal, revocation, or suspension of licenses — grounds — notice and hearing. (1) The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the following cases:

(a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon or shop or a school of barbering*, barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring to comply with this chapter;

(b) failure to comply with the sanitary rules adopted by the board and approved by the department of public health and human services for the regulation of salons or shops or schools of barbering*, barbering nonchemical*, cosmetology, electrology, esthetics, or manicuring;

(c) gross malpractice;

(d) continued practice by a person who knowingly has an infectious or contagious disease;

(e) habitual drunkenness or habitual addiction to the use of any habit-forming drug;

(f) permitting a license to be used when the holder is not personally, actively, and continuously engaged in business; or

(g) failure to display the license.

(2) The board may not refuse to authorize the department to issue or renew a license or to revoke or suspend a license already issued until after notice and opportunity for a hearing."

Section 15. Section 37-33-404, MCA, is amended to read:

"37-33-404. Exemptions — rules. (1) The provisions of this chapter do not limit or regulate the scope of practice of any other profession licensed under the laws of this state, including but not limited to medicine, dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine, occupational therapy, naturopathic medicine, cosmetology, manicuring, barbering, *barbering nonchemical,* esthetics, electrology, professional counseling, social work, psychology, or athletic training.

(2) A continuing education course instructor is not required to be licensed as a massage therapist.

(3) A massage therapy student, when enrolled in a board-approved program and while practicing the skills of massage therapy designated as a school-sanctioned activity and under the supervision of a licensed massage therapist, is not required to be licensed.

(4) The provisions of this chapter do not limit or regulate the practice of Native American traditional healing or faith healing.

(5) (a) The provisions of this chapter do not limit or regulate the practice of any person who uses:

(i) touch, words, and directed movement to deepen awareness of existing patterns of movement in the body, as well as to suggest new possibilities of movement. Exempt practices under this subsection (5)(a)(i) include but are not limited to the Feldenkrais method of somatic education, the Trager approach to movement education, and body-mind centering.

(ii) touch to affect the human energy systems, energy meridians, or energy fields. Exempted practices under this subsection (5)(a)(ii) include but are not limited to polarity bodywork therapy, Asian bodywork therapy, acupressure, jin shin do, qigong, reiki, shiatsu, and tui na.

(iii) touch to effect change on the integration of the structure of the physical body. Exempt practices under this subsection (5)(a)(iii) include but are not limited to the Rolf method of structural integration, Rolfing, and Hellerwork.

(iv) touch to affect the reflex areas located in the hands, feet, and outer ears. Exempt practices under this subsection (5)(a)(iv) include but are not limited to reflexology.

(b) The exemptions in subsection (5)(a) apply only if:

(i) the person is recognized by or meets the established requirements of either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimum level of training, demonstration of competence, and adherence to ethical standards; and

(ii) the person's services are not designated as or implied to be massage therapy."

Section 16. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, and who has been or is likely to be specially and injuriously affected by a violation of this chapter.

(3) "Commission" means the commission for human rights provided for in 2-15-1706.

(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(5) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment. It includes without limitation the right to incur and defer debt that is secured by residential real property.

(6) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

(7) "Creditor" means a person who, regularly or as a part of the person's business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

(8) "Department" means the department of labor and industry provided for in 2-15-1701.

(9) "Educational institution" means a public or private institution and includes an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business, nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

(10) (a) "Employee" means an individual employed by an employer.

(b) The term does not include an individual providing services for an employer if the individual has an independent contractor exemption certificate issued under 39-71-417 and is providing services under the terms of that certificate.

(11) "Employer" means an employer of one or more persons or an agent of the employer but does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a nonmembership basis.

(12) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(13) "Financial institution" means a commercial bank, trust company, savings bank, finance company, savings and loan association, credit union, investment company, or insurance company.

(14) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, that is or will be used as the sleeping quarters of its occupants.

(15) "Labor organization" means an organization or an agent of an organization organized for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms or conditions of employment, or of other mutual aid and protection of employees.

(16) "National origin" means ancestry.

(17) (a) "Organization" means a corporation, association, or any other legal or commercial entity that engages in advocacy of, enforcement of, or compliance with legal interests affected by this chapter.

(b) The term does not include a labor organization.

(18) "Person" means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock

companies, trusts, unincorporated employees' associations, employers, employment agencies, organizations, or labor organizations.

(19) (a) "Physical or mental disability" means:

(i) a physical or mental impairment that substantially limits one or more of a person's major life activities;

(ii) a record of such an impairment; or

(iii) a condition regarded as such an impairment.

(b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental disability. An accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(20) (a) "Public accommodation" means a place that caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park, resort, campground, barbering, *barbering nonchemical,* cosmetology, electrology, esthetics, or manicuring salon or shop, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business establishments.

(b) Public accommodation does not include an institution, club, or place of accommodation that proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this subsection (20), any lodge of a recognized national fraternal organization is considered by its nature distinctly private."

Approved February 17, 2015

CHAPTER NO. 16

[HB 139]

AN ACT ALLOWING A DEPUTY PUBLIC DEFENDER TO PARTICIPATE IN CERTAIN ELIGIBILITY DETERMINATIONS; AND AMENDING SECTION 47-1-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility — determination of indigence — rules. (1) (a) When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court. The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.

(2) (a) An applicant who is eligible for a public defender because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit. The court shall advise the defendant that the defendant is subject to criminal charges for any false statement made on the financial statement.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission. The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in 15-30-2337, is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit ~~individual~~ *a* public ~~defenders~~ *defender* from performing eligibility screening *for the public defender's own cases* pursuant to this section.

A deputy public defender or individual public defender reviewing another public defender's case may perform eligibility screening pursuant to this section."

Approved February 17, 2015

CHAPTER NO. 17

[HB 143]

AN ACT SUSPENDING PAYMENT OF PUBLIC DEFENDER FEES DURING PERIODS OF INCARCERATION; AND AMENDING SECTIONS 46-8-113 AND 46-8-114, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-8-113, MCA, is amended to read:

"46-8-113. Payment by defendant for assigned counsel — costs to be filed with court. (1) Subject to the provisions of subsections (2) and (3), as part of or as a condition of a sentence that is imposed under the provisions of this title, the court shall determine whether a convicted defendant should pay the costs of counsel assigned to represent the defendant as follows:

(a) If the defendant pleads guilty prior to trial:

(i) to one or more misdemeanor charges and no felony charges, the cost of counsel is $250; or

(ii) to one or more felony charges, the cost of counsel is $800.

(b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public defender for providing the defendant with counsel in the criminal trial. The office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred for the trial.

(2) Any costs imposed pursuant to this section must be paid in accordance with 46-18-251(2)(e).

(3) In any proceeding for the determination of whether a defendant is or will be able to pay the costs of counsel, the court shall question the defendant as to the defendant's ability to pay those costs and shall inform the defendant that purposely false or misleading statements by the defendant may result in criminal charges against the defendant.

(4) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant is or will be able to pay the costs imposed by subsection (1). The court may find that the defendant is able to pay only a portion of the costs assessed. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(5) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

(6) A defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration.

~~(6)~~*(7)* Any costs imposed under this section must be included in the court's judgment."

Section 2. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment. *(1)* ~~When~~ *Except as provided in subsection (2), when* a defendant is sentenced to pay the costs of assigned counsel pursuant to 46-8-113, the court may order payment to be made within a specified period of time or in specified installments.

(2) A defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration.

(3) Payments must be made to the clerk of the sentencing court for allocation as provided in 46-18-201, 46-18-232, and 46-18-251 and deposited in the account established in 47-1-110."

Approved February 17, 2015

CHAPTER NO. 18

[SB 5]

AN ACT PROVIDING FOR THE ESTABLISHMENT OF AND FUNDING FOR DEPLOYMENT OF ALL-HAZARD INCIDENT MANAGEMENT ASSISTANCE TEAMS; ALLOWING FOR COSTS INCURRED BY A TEAM TO BE PAID USING INCIDENT RESPONSE EXPENDITURE AUTHORITY; REQUIRING RULES PROMULGATED BY THE STATE EMERGENCY RESPONSE COMMISSION TO INCLUDE CERTAIN PROCEDURES FOR TEAMS AND TEAM MEMBERS; AMENDING SECTIONS 10-3-103, 10-3-310, AND 10-3-1204, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-3-103, MCA, is amended to read:

"10-3-103. Definitions. As used in parts 1 through 4 of this chapter, the following definitions apply:

(1) "All-hazard incident management assistance team" means a team that includes any combination of personnel representing local, state, or tribal entities that has been established by the state emergency response commission provided for in 10-3-1204 for the purpose of local incident management intended to mitigate the impacts of an incident prior to a disaster or emergency declaration.

~~(1)~~*(2)* "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency services.

~~(2)~~*(3)* "Department" means the department of military affairs.

~~(3)~~*(4)* "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation byproducts or other hazardous materials, outbreak of disease, bioterrorism, or incidents involving weapons of mass destruction.

~~(4)~~*(5)* "Disaster and emergency services" means the preparation for and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.

~~(5)~~*(6)* "Disaster medicine" means the provision of patient care by a health care provider during a disaster or emergency when the number of patients exceeds the capacity of normal medical resources, facilities, and personnel. Disaster medicine may include implementing patient care guidelines that depart from recognized nondisaster triage and standard treatment patient care guidelines determining the order of evacuation and treatment of persons needing care.

~~(6)~~*(7)* "Division" means the division of disaster and emergency services of the department.

~~(7)~~*(8)* "Emergency" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize.

~~(8)~~*(9)* (a) "Incident" means an event or occurrence, caused by either an individual or by natural phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent threat of an emergency.

(b) The term does not include a state of emergency or disaster declared by the governor pursuant to 10-3-302 or 10-3-303.

~~(9)~~*(10)* "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

~~(10)~~*(11)* "Principal executive officer" means the mayor, presiding officer of the county commissioners, or other chief executive officer of a political subdivision.

~~(11)~~*(12)* "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings.

~~(12)~~*(13)* "Tribal government" means the government of a federally recognized Indian tribe within the state of Montana.

~~(13)~~*(14)* "Volunteer professional" means an individual with an active, unrestricted license to practice a profession under the provisions of Title 37, Title 50, or the laws of another state."

Section 2. Section 10-3-310, MCA, is amended to read:

"10-3-310. Incident response — authority — appropriation — expenditures — recovery — rules. (1) The governor may by executive order upon request of the local governing body, its authorized agent, or a tribal government activate that part of the state disaster and emergency plan pertaining to incident response. The order may be issued for any year, for any part of a year, or upon occurrence of an incident.

(2) Upon approval of an executive order pursuant to this section:

(a) that part of the state disaster and emergency plan pertaining to incidents becomes effective;

(b) the division may use any of the resources usable by the division during a state of emergency or disaster to respond to the incident; and

(c) there is statutorily appropriated, as provided in 17-7-502, to the office of the governor, and the governor is authorized to expend from the general fund an amount not to exceed $10,000 per incident and not to exceed $100,000 for incidents in a biennium.

(3) The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from the general fund, in the amount necessary, upon activation of the incident response portion of the state disaster and emergency plan. Money appropriated by this section may be used only for

incident response costs of the state and ~~may not be used to reimburse a local government or tribal government for incident response costs incurred by that local government or tribal government~~ *incident response costs incurred by an all-hazard incident management assistance team established under 10-3-1204.*

(4) In the event of recovery of money expended pursuant to this section, the spending authority must be reinstated to the level reflecting the recovery.

(5) The department may adopt rules to implement this section."

Section 3. Section 10-3-1204, MCA, is amended to read:

"10-3-1204. State emergency response commission — *members — duties — establishment of incident response and incident management teams.* (1) There is a state emergency response commission that is attached to the department for administrative purposes. The commission consists of 29 members appointed by the governor. The commission must include representatives of the national guard, the air force, the department of environmental quality, the division, the department of transportation, the department of justice, the department of natural resources and conservation, the department of public health and human services, a fire service association, the fire services training school, the emergency medical services and trauma systems section of the public health and safety division in the department of public health and human services, the department of fish, wildlife, and parks, the department of agriculture, Montana hospitals, an emergency medical services association, a law enforcement association, an emergency management association, a public health-related association, a trucking association, a utility company doing business in Montana, a railroad company doing business in Montana, Montana's petroleum industry, Montana's insurance industry, the university system, a tribal emergency response commission, the national weather service, the Montana association of counties, the Montana league of cities and towns, and the office of the governor. At least one representative must be a member of a local emergency planning committee. Members of the commission serve terms of 4 years and may be reappointed. The members shall serve without compensation. The governor shall appoint two presiding officers from the appointees, who shall act as copresiding officers.

(2) The commission shall implement the provisions of this part. The commission may create and implement a state hazardous material incident response team to respond to *hazardous material* incidents. The members of the team must be certified in accordance with the plan.

(3) The commission may enter into written agreements with each entity or person providing equipment or services to the state hazardous material incident response team.

(4) The commission or its designee may direct that the state hazardous material incident response team be available and respond, when requested by a local emergency response authority, to *hazardous material* incidents according to the plan.

(5) The commission may contract with persons to meet state emergency response needs for the state hazardous material incident response team.

(6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments, and other persons concerned with emergency response and matters relating to and arising out of incidents.

(7) The commission may encourage, participate in, or conduct studies, investigations, training, research, and demonstrations for and with the state hazardous material incident response team, local emergency responders, and other interested persons.

(8) The commission may collect and disseminate information relating to emergency response to incidents.

(9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise, made to the state for emergency response activities provided for in this part.

(10) The commission may prepare, coordinate, implement, and update a plan that coordinates state and local emergency authorities to respond to incidents within the state. The plan must be consistent with this part. All state emergency response responsibilities relating to an incident must be defined by the plan.

(11) The commission has the powers and duties of a state emergency response commission under the federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that the division shall oversee the creation, annual local review, and exercise and revision of the local emergency operations plan as provided by state law.

(12) The commission shall promulgate rules and procedures limited to cost recovery procedures, certification of state hazardous material incident response team members *and all-hazard incident management assistance team members*, and deployment of the state hazardous material incident response team *and all-hazard incident management assistance teams*, which must be a part of the plan.

(13) The commission shall act as an all-hazard advisory board to the division by:

(a) assisting the division in carrying out its responsibilities by providing the division with recommendations on issues pertaining to all-hazard emergency management; ~~and~~

(b) authorizing the establishment of subcommittees to develop and provide the recommendations called for in subsection (13)(a)*; and*

(c) establishing all-hazard incident management assistance teams.

(14) The commission shall appoint the members of the Montana intrastate mutual aid committee provided for in 10-3-904.

(15) All state agencies and institutions shall cooperate with the commission in the commission's efforts to carry out its duties under this part."

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved February 17, 2015

CHAPTER NO. 19

[SB 10]

AN ACT EXEMPTING CERTAIN NATURAL GAS UTILITIES FROM THE REQUIREMENTS OF A UNIVERSAL SYSTEM BENEFITS PROGRAM; AMENDING SECTION 69-3-1408, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-3-1408, MCA, is amended to read:

"69-3-1408. Universal system benefits programs — establishing nonbypassable rate — *exemption.* (1) ~~A~~ *Except as provided in subsection (4), a* natural gas utility shall implement, upon commission approval and subject to ongoing commission oversight and direction, a universal system benefits program.

(2) ~~The~~ *Except as provided in subsection (4), the* commission shall establish a universal system benefits charge that ~~all~~ natural gas transmission services providers or ~~all~~ distribution services providers, or both, in the state of Montana shall charge to all end-use customers, taking into consideration the current level of expenditure by the natural gas utility, cost-effectiveness, and similar costs imposed in other states. The charge may be established and revised through a universal system benefits charge tracking procedure. The method of assessing the charge may not disproportionately burden a large transmission services provider's customers. Within the universal system benefits charge, beginning January 1, 2007, a natural gas utility's minimum annual funding requirement for low-income weatherization and low-income energy bill assistance is established at 0.42% of a natural gas utility's annual revenue for the previous year. A natural gas utility must receive credit for its internal programs or activities that qualify as universal system benefits programs.

(3) ~~A~~ *Except as provided in subsection (4), a* natural gas utility shall file an annual report of its universal system benefits charges, programs, and program funding levels with the commission in a manner prescribed by the commission.

(4) A natural gas utility that serves 200 or fewer customers is exempt from the requirements of subsections (1) through (3)."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to the compliance year beginning January 1, 2015.

Approved February 17, 2015

CHAPTER NO. 20

[SB 11]

AN ACT EXEMPTING CERTAIN PUBLIC UTILITIES FROM THE REQUIREMENTS OF THE UNIVERSAL SYSTEM BENEFITS PROGRAM; AMENDING SECTION 69-8-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) ~~Beginning~~ *Except as provided in subsection (11), beginning* January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on

an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's utility shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) ~~A~~ *Except as provided in subsection (11), a* utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) ~~A~~ *Except as provided in subsection (11), a* public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

(b) Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall review the universal system benefits programs and, if necessary, submit recommendations regarding these programs to the legislature.

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior

approval by the department of revenue or the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance.

(11) A public utility with fewer than 50 customers is exempt from the requirements of this section."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to the compliance year beginning January 1, 2015.

Approved February 17, 2015

CHAPTER NO. 21

[SB 15]

AN ACT CLARIFYING THAT RETIRED JUDGES OR JUSTICES MAY HANDLE ALL PHASES OF A CASE IF CALLED FOR SERVICE; AMENDING SECTION 19-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-5-103, MCA, is amended to read:

"19-5-103. Call of retired judges and justices and inactive vested members for duty. (1) (a) If physically and mentally able, a retired judge or justice who has voluntarily retired after at least 8 years of service is subject to call for duty by the chief justice to aid and assist any district court or any water court under directions that the chief justice may give or to serve as water judge.

(b) When called, a retired judge's or justice's duties include the examination of the facts, cases, and authorities cited and the preparation of opinions for and on behalf of the court to which the judge or justice is called to serve. The opinions, when and if and to the extent approved by the court, may be ordered by the court to constitute the opinion of the court. The court and the retired judge or justice may, subject to any rule that the supreme court may adopt, perform any duties ~~preliminary to the final disposition of cases~~ that are not inconsistent with the constitution of the state.

(2) (a) A retired judge or justice, when called to duty, must be reimbursed for actual expenses, if any, in responding to the call.

(b) In addition, a retired judge or justice is entitled to receive compensation in an amount equal to:

(i) the daily salary then currently applicable to the judicial position in which the duty is rendered for each day of duty rendered, up to a total of 180 days in a calendar year; and

(ii) for each day of duty after 180 days in a calendar year, one-twentieth of the monthly salary then currently applicable to the judicial position in which the duty is rendered minus an amount equal to one-twentieth of the monthly retirement benefit that the retired judge or justice is receiving, if any.

(3) A judge or justice who is an inactive vested member, who has voluntarily discontinued service as an active judge after *at least* 8 years of service, and who, by reason of age, is not eligible to receive a retirement benefit under this chapter may be called for duty as provided in subsection (1). A judge or justice called to duty under this subsection must be reimbursed as provided in subsection (2)(a) and compensated as provided in subsection (2)(b)(i) regardless of the number of days served in a calendar year."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 17, 2015

CHAPTER NO. 22

[SB 26]

AN ACT CLARIFYING THAT SEARCH WARRANT APPLICATIONS MAY BE SUBMITTED ELECTRONICALLY; AMENDING SECTION 46-5-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-5-221, MCA, is amended to read:

"46-5-221. Grounds for search warrant. A judge shall issue a search warrant to a person upon application, in writing, ~~or~~ by telephone, *or electronically,* made under oath or affirmation, that:

(1) states facts sufficient to support probable cause to believe that an offense has been committed;

(2) states facts sufficient to support probable cause to believe that evidence, contraband, or persons connected with the offense may be found;

(3) particularly describes the place, object, or persons to be searched; and

(4) particularly describes who or what is to be seized."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 17, 2015

CHAPTER NO. 23

[SB 75]

AN ACT GENERALLY REVISING NONDEPOSITORY LENDING LAWS; CLARIFYING PROCEDURAL DUE PROCESS FOR BOTH DEFERRED DEPOSIT LENDERS UNDER TITLE 31 AND CONSUMER LENDERS UNDER TITLE 32; CLARIFYING THE SERVICE OF PROCESS BY CERTIFIED MAIL; CLARIFYING THAT ONLY A RESPONDENT TO A COMPLAINT IS ENTITLED TO A CONTESTED CASE HEARING; INCREASING THE TIME FOR PERSONS TO EXERCISE CERTAIN LEGAL RIGHTS; PROVIDING THE DEPARTMENT WITH ACCESS TO LENDERS' RECORDS MAINTAINED OUT OF STATE; ALLOWING AN INSUFFICIENT FUNDS FEE FOR DISHONORED FORMS OF PAYMENT OTHER THAN CHECKS ON CONSUMER LOANS; ELIMINATING A CRIMINAL PENALTY FOR VIOLATIONS OF THE MONTANA DEFERRED DEPOSIT LOAN ACT;

AMENDING SECTIONS 31-1-712, 31-1-713, 31-1-727, 32-5-202, 32-5-207, 32-5-402, 32-5-407, AND 32-5-408, MCA; AND REPEALING SECTION 31-1-725, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 31-1-712, MCA, is amended to read:

"31-1-712. ~~License revocation or suspension — restitution — penalty~~ *Notice of violation — administrative hearing — penalties — liability.* (1) ~~The~~ *If the* department ~~shall provide a 14-day written notice that includes a statement of the alleged violation and provision for a hearing or an opportunity for hearing, as provided in the Montana Administrative Procedure Act. The notice must be based on a finding that any person, licensee, or officer, agent, employee, or representative, whether~~ *has probable cause to believe that a* licensed or unlicensed~~, of the~~ person ~~or licensee~~ has violated any of the provisions of this part, ~~has failed to comply with the rules, regulations, instructions, or orders~~ *a rule* promulgated *under this part, or an order issued* by the department~~,~~ *or has made a material misrepresentation to the department by act or omission, the department may issue a notice stating the alleged violation to the person.* ~~has failed or refused to make required reports to the department, has furnished false information to the department, or has operated without a required license. The~~

(2) (a) The notice referred to in subsection (1) must comply with 2-4-601 and must include a statement that the person has an opportunity to request an administrative hearing under the Montana Administrative Procedure Act within 14 days of the date that the department's notice was mailed to the person.

(b) The department shall mail the notice by certified mail to a licensee's address of record with the department or to an unlicensed person at an address for the person known to the department. The department has complied with the service of process upon mailing the notice by certified mail.

(3) If a person served with a notice under subsection (2) admits to or does not contest having violated or is found after an administrative hearing to have violated this part, a rule promulgated under this part, or an order issued by the department or to have made a material misrepresentation to the department by act or omission, the department may impose a civil penalty not to exceed $1,000 for each violation and may issue an order revoking or suspending the right of the person or licensee, directly or through an officer, agent, employee, or representative, to do business in this state as a licensee or to engage in the business of making deferred deposit loans. In addition, the department may order restitution to borrowers and reimbursement for the department's cost in bringing the administrative action. *The department's remedies specified in this part are cumulative, except that the remedies in 31-1-724 pertaining to a consumer's private rights of action are not available to the department.*

~~(2)~~*(4)* In addition to the penalties in subsection ~~(1)~~ *(3)*, any deferred deposit loan made by an unlicensed person is void, and the unlicensed person may not directly or indirectly collect, receive, or retain any loan principal, interest, fees, or other charges related to the loan.

~~(3) All notices, hearing schedules, and orders must be mailed to the person or licensee by certified mail to the address for which the license was issued or, in the case of an unlicensed business, to the last-known address of record.~~

~~(4)~~*(5)* A revocation, suspension, or surrender of a license does not relieve the licensee from civil or criminal liability for acts committed prior to the revocation, suspension, or surrender of the license.

~~(5)~~*(6)* The department may reinstate any suspended or revoked license if there is not a fact or condition existing at the time of reinstatement that would have justified the department's refusal to originally issue the license. If a license has been suspended or revoked for cause, an application may not be made for the issuance of a new license or the reinstatement of a suspended or revoked license for a period of 6 months from the date of suspension or revocation.

~~(6)~~*(7)* All civil penalties collected pursuant to this section must be deposited in the state general fund."

Section 2. Section 31-1-713, MCA, is amended to read:

"31-1-713. ~~Complaint procedure~~ *Department obligations — complaints.* (1) The department shall maintain, either directly or indirectly through a nationwide licensing system, a list of licensees that is available to and accessible by interested persons and the general public.

(2) The department shall also establish by rule a procedure under which an aggrieved consumer or any member of the public may file a complaint against a licensee or an unlicensed person ~~who violates any provision of this part~~.

~~(2) The department may hold hearings, subject to the contested case provisions of Title 2, chapter 4, part 6, upon the request of a party to the complaint, make findings of fact or conclusions of law, issue cease and desist orders, refer the matter to the appropriate law enforcement agency for prosecution for a violation of this part, seek injunctive or other relief in district court, or suspend or revoke a license granted under this part.~~

(3) If the department determines there is probable cause to issue and serve a notice under 31-1-712 to a licensed or unlicensed person against whom a complaint has been filed by a consumer or other member of the public, the department is obligated to provide only the licensee or the unlicensed person with the opportunity to request an administrative hearing."

Section 3. Section 31-1-727, MCA, is amended to read:

"31-1-727. Cease and desist orders. (1) If ~~it appears to~~ the department *determines* that a person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this part or any rule adopted or order issued by the department pursuant to this part, the department may issue an order directing the person to cease and desist from continuing the act or practice after ~~reasonable~~ *issuance and service of a* notice ~~and opportunity for a hearing~~ *as provided in 31-1-712*. The order may apply only to the alleged act or practice constituting a violation of this ~~chapter~~ *part*.

(2) The department may issue a temporary order pending the hearing that:

(a) remains in effect until ~~10~~ *14* days after the hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(b) becomes final if the person to whom notice is ~~addressed~~ *issued and served as provided in 31-1-712* does not request a hearing within ~~10~~ *14* days after ~~receipt of~~ *the date on which* the notice *was sent by certified mail*.

~~(2)~~*(3)* A violation of an order issued pursuant to this section is subject to the penalty provisions of this part."

Section 4. Section 32-5-202, MCA, is amended to read:

"32-5-202. Issuance or denial of license or license renewal. (1) Upon submission of a completed application and payment of all required fees, a license or renewal must be issued if the department determines that:

(a) the character and general fitness of the applicant warrant the belief that the business will be operated lawfully and fairly within the provisions of this chapter;

(b) the applicant has not had a financial services license revoked by a regulatory agency in any jurisdiction;

(c) there are no outstanding civil judgments against the applicant for fraud in relation to providing consumer financial services; and

(d) the application does not contain material misstatements of fact or material omissions of fact.

(2) The department may enter an order denying the license or license renewal application subject to ~~notifying the applicant and providing the applicant an opportunity for a hearing. All notices and orders must be served~~ *issuance and service of notice and opportunity for an administrative hearing* as provided in 32-5-207(2)."

Section 5. Section 32-5-207, MCA, is amended to read:

"32-5-207. ~~Revocation and suspension of license — penalty — restitution~~ *Notice of violation — administrative hearing — penalties — liability.* (1) ~~(a) The~~ *If the* department~~, after providing a 14-day written notice to a person, whether~~ *has probable cause to believe that a* licensed or unlicensed~~, that includes a statement of alleged violations and notice that the person has the right to an administrative hearing, may issue an order that includes one or more of the penalties provided for in subsection (1)(b) if it finds that the person has:~~

~~(i) violated any provision of this chapter;~~

~~(ii) failed to comply with any department rule, written instruction, or order;~~

~~(iii) failed or refused to make required reports;~~

~~(iv) furnished false information; or~~

~~(v) operated without a license~~ *person has violated this chapter, a rule promulgated under this chapter, or an order issued by the department or has made a material misrepresentation to the department by act or omission, the department may issue a notice stating the alleged violation to the person.*

(2) (a) The notice referred to in subsection (1) must comply with 2-4-601 and must include a statement that the person has an opportunity to request an administrative hearing under the Montana Administrative Procedure Act within 14 days of the date that the department's notice was mailed to the person.

(b) The department's notice must be sent by certified mail to a licensee's address of record with the department or to an unlicensed person at an address for the person known to the department.

(c) The department has complied with the service of process upon mailing the notice by certified mail as provided in subsection (2)(b).

~~(b)~~*(3)* ~~The~~ *If a person served with a notice under this section admits to or does not contest having violated or is found after an administrative hearing to have violated a provision of this chapter, a rule promulgated under this chapter, or an order issued by the department or to have made a material misrepresentation to the department by act or omission, the* department may impose a civil penalty of not more than $1,000 for each violation and may order restitution to borrowers and reimbursement of the department's costs in bringing an administrative action. The department may suspend or revoke the right of a person or licensee, directly or through an officer, agent, employee, or representative, to operate as a licensee or to engage in the business of making consumer loans.

(4) The department's remedies specified in this chapter are cumulative.

~~(2) All notices, hearing schedules, and orders must be mailed to the person or licensee by certified mail to the address for which the license was issued or in the case of an unlicensed person to the last-known address of record.~~

~~(3)~~*(5)* A revocation or suspension of a license does not relieve the licensee from civil, administrative, or criminal liability for acts committed prior to the revocation or suspension of the license.

~~(4)~~*(6)* All civil penalties collected pursuant to this section must be deposited in the state general fund."

Section 6. Section 32-5-402, MCA, is amended to read:

"32-5-402. Investigations by department — subpoenas — oaths — examination of witnesses and evidence. (1) The department may at any time investigate any transaction with borrowers and may examine the books, accounts, and records ~~in this state~~ to discover violations of this chapter by:

(a) a licensee; or

(b) a person who the department has reason to believe is violating or is about to violate this chapter.

(2) The department or the department's authorized representatives must be given free access to the offices and places of business and files of all licensees. The department may investigate any matter, upon complaint or otherwise, if it appears that a person has engaged in or offered to engage in any act or practice that is in violation of any provision of this chapter or any rule adopted or order issued by the department pursuant to this chapter.

(3) The department may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control, or supervision pertaining to this chapter. The department may administer oaths and affirmations to a person whose testimony is required.

(4) If a person refuses to obey a subpoena or to give testimony or produce evidence as required by the subpoena, a judge of the district court of Lewis and Clark County or the county in which the licensed premises are located may, upon application and proof of the refusal, issue a subpoena or subpoena duces tecum for the witness to appear before the department to give testimony and produce evidence as may be required. The clerk of court shall then issue the subpoena, as directed, under the seal of the court, requiring the person to whom it is directed to appear at the time and place designated in the subpoena.

(5) If a person served with a subpoena refuses to obey the subpoena or to give testimony or produce evidence as required by the subpoena, the department may proceed under the contempt provisions of Title 3, chapter 1, part 5.

(6) Failure to comply with the requirements of a court-ordered subpoena is punishable pursuant to 45-7-309."

Section 7. Section 32-5-407, MCA, is amended to read:

"32-5-407. Attorney fees — bad check fee. (1) If provided in the contract, reasonable attorney fees may be awarded to the party in whose favor final judgment is rendered in any action on a contract entered into pursuant to the provisions of this chapter.

(2) In addition to any other fees authorized by this chapter, a licensee may charge a borrower the greater of $25 or the licensee's actual expense for each check, *draft, converted check, electronic funds transfer, or other authorization or order for the payment of money* received in payment of a loan, that is dishonored for any reason."

Section 8. Section 32-5-408, MCA, is amended to read:

"32-5-408. Cease and desist orders. (1) If ~~it appears to~~ the department *determines* that a person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted or order issued by the department pursuant to this chapter, the department may issue an order directing the person to cease and desist from continuing the act or practice after ~~reasonable~~ *issuance and service of a* notice and opportunity for ~~a~~ *an administrative* hearing *as provided in 32-5-207*. The order may apply only to the alleged act or practice constituting a violation of this chapter.

(2) The department may issue a temporary order pending the hearing that:

(a) remains in effect until ~~10~~ *14* days after the hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(b) becomes final if the person to whom notice is ~~addressed~~ *issued and served* does not request a hearing within ~~10~~ *14* days after ~~receipt of~~ *the date on which* the notice *was sent by certified mail as provided in 32-5-207*.

~~(2)~~*(3)* A violation of an order issued pursuant to this section is subject to the penalty provisions of this chapter."

Section 9. Repealer. The following section of the Montana Code Annotated is repealed:

31-1-725. Criminal penalties.

Approved February 17, 2015

CHAPTER NO. 24

[SB 98]

AN ACT REVISING THE MONTANA MORTGAGE ACT TO CLARIFY LICENSING REQUIREMENTS; REVISING DEFINITIONS; REMOVING EXEMPT COMPANY REGISTRATION; CLARIFYING PRELICENSING EDUCATION REQUIREMENTS; AMENDING EXPERIENCE REQUIREMENTS; CLARIFYING CONTROL PERSONS WHO MUST MEET LICENSING REQUIREMENTS; CLARIFYING THE RESPONSIBILITIES OF DESIGNATED MANAGERS; ALLOWING SURETY BONDS TO BE HELD BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY (NMLS) AND ALLOWING REPORTS AND NOTICES TO BE FILED AND DELIVERED THROUGH THE NMLS; ADOPTING NMLS FORMS AND POLICIES; ADDRESSING LICENSING OF LOAN PROCESSOR OR LOAN UNDERWRITER ENTITIES; ALLOWING THE DEPARTMENT TO SET SERVICING STANDARDS BY RULE; REVISING THE DEPARTMENT'S RULEMAKING AUTHORITY; AMENDING SECTIONS 32-9-102, 32-9-103, 32-9-104, 32-9-105, 32-9-107, 32-9-109, 32-9-112, 32-9-113, 32-9-122, 32-9-123, 32-9-129, 32-9-130, 32-9-166, 32-9-169, AND 32-9-170, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-9-102, MCA, is amended to read:

"32-9-102. License requirement — registration. (1) Unless exempt under 32-9-104, a person may not regularly engage in the business of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator with respect to any residential mortgage loan unless licensed *or registered* under the

provisions of this part ~~or registered~~ through the NMLS ~~with a unique identifier assigned~~.

~~(2) A person regularly engaging in the business of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator under this part is required to be licensed through, registered with, and maintain a valid unique identifier issued by the NMLS.~~

~~(3)~~*(2)* A mortgage broker or mortgage lender may not employ or contract with any person required to be licensed under this part if the person is not licensed. (See part compiler's comment regarding contingent suspension.)"

Section 2. Section 32-9-103, MCA, is amended to read:

"32-9-103. Definitions. As used in this part, the following definitions apply:

(1) "Administrative or clerical tasks" mean the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, without performing any analysis of the information, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(2) "Advertising" means a commercial message in any medium*, including social media and software,* that promotes, either directly or indirectly, a residential mortgage ~~lending~~ *loan* transaction.

(3) "Application" means a request, in any form, for an offer of residential mortgage loan terms or a response to a solicitation of an offer of residential mortgage loan terms and includes the information about the borrower that is customary or necessary in a decision on whether to make such an offer.

(4) "Approved education course" means any course approved by the NMLS.

(5) "Approved test provider" means any test provider approved by the NMLS.

(6) "Bona fide not-for-profit entity" means an entity that:

(a) maintains tax-exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(4);

(b) promotes affordable housing or provides homeownership education or similar services;

(c) conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;

(d) receives funding and revenue and charges fees in a manner that does not create incentives for the entity or its employees to act other than in the best interests of its clients;

(e) compensates employees in a manner that does not create incentives for employees to act other than in the best interests of clients;

(f) provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs. For purposes of this subsection (6)(f), for residential mortgage loans to have terms that are favorable to the borrower, the department shall determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.

(g) is either certified by the U.S. department of housing and urban development or has received a community housing development organization designation as defined in 24 CFR 92.2.

(7) "Bona fide third party" means a person that provides services relative to the origination of a residential mortgage loan. The term includes but is not limited to real estate appraisers and credit reporting agencies.

(8) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.

(9) "Branch office" means a location at which a licensee conducts business other than a licensee's principal place of business. The location is considered a branch office if:

(a) the address of the location appears on business cards, stationery, or advertising used by the entity;

(b) the entity's name or advertising suggests that mortgages are made at the location;

(c) the location is held out to the public as a licensee's place of business due to the actions of an employee or independent contractor of the entity; or

(d) the location is controlled directly or indirectly by the entity.

(10) (a) "Clerical or support duties" includes:

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(b) The term does not include:

(i) taking a residential mortgage loan application; or

(ii) offering or negotiating the terms of a residential mortgage loan.

~~(10)~~*(11)* "Commercial context" means that an individual who acts as a mortgage loan originator does so for the purpose of obtaining profit for an entity or individual for which the individual acts, including a sole proprietorship or other entity that includes only the individual, rather than exclusively for public, charitable, or family purposes.

~~(11)~~*(12)* (a) "Control" means the power, directly or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise.

(b) A person is presumed to control an entity if that person:

(i) is a director, general partner, or executive officer or is an individual that occupies a similar position or performs a similar function;

(ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities;

(iii) in the case of a limited liability company, is a managing member; or

(iv) in the case of a partnership, has the right to receive upon dissolution or has contributed 10% or more of the capital.

~~(12)~~*(13)* "Department" means the department of administration provided for in 2-15-1001, acting through its division of banking and financial institutions.

~~(13)~~*(14)* "Depository institution" has the meaning provided in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c), and includes any credit union.

~~(14)~~*(15)* "Designated manager" means a mortgage loan originator with at least 3 years of experience as a mortgage loan originator or registered mortgage loan originator who is designated by an entity as the individual responsible for

the operation of a particular location that is under the designated manager's full management, supervision, and control.

~~(15)~~*(16)* "Dwelling" has the meaning provided in 15 U.S.C. 1602(w).

~~(16)~~*(17)* "Entity" means a business organization, including a sole proprietorship.

~~(17)~~*(18)* "Escrow account" means a depository account with a financial institution that provides deposit insurance and that is separate and distinct from any personal, business, or other account of the mortgage lender or mortgage servicer and is maintained solely for the holding and payment of escrow funds.

~~(18)~~*(19)* "Escrow funds" means funds entrusted to a mortgage lender or mortgage servicer by a borrower for payment of taxes, insurance, or other payments to be made in connection with the servicing of a loan.

~~(19)~~*(20)* "Expungement" means a court-ordered process that involves the destruction of documentation related to past arrests and convictions.

~~(20)~~*(21)* "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration, or the federal deposit insurance corporation.

~~(21)~~*(22)* "Housing finance agency" includes the Montana board of housing provided for in 2-15-1814.

~~(22)~~*(23)* "Independent contractor" means an individual who performs duties other than at the direction of and subject to the supervision and instruction of another individual who is licensed and registered in accordance with this part or who is not required to be licensed in accordance with 32-9-104(1)(b), (1)(d), or (1)(g).

(24) "Independent contractor entity" means an entity that offers or provides clerical or support duties for another person.

~~(23)~~*(25)* "Individual" means a natural person.

~~(24)~~*(26)* "Licensee" means a person authorized pursuant to this part to engage in activities regulated by this part. The term does not include an individual who is a registered mortgage loan originator.

~~(25)~~*(27)* "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.

~~(26)~~*(28)* (a) "Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs ~~administrative or clerical tasks~~ *clerical or support duties* as an employee at the direction of and subject to the supervision of a licensed mortgage loan originator or registered mortgage loan originator.

(b) For the purposes of subsection ~~(26)(a)~~ *(28)(a)*, "origination of a residential mortgage loan" means all activities related to a residential mortgage loan from the taking of a residential mortgage loan application through the completion of all required loan closing documents and funding of the residential mortgage loan.

~~(27)~~*(29)* "Mortgage" means a consensual interest in real property located in Montana, including improvements, securing a debt evidenced by a mortgage, trust indenture, deed of trust, or other lien on real property.

~~(28)~~*(30)* (a) "Mortgage broker" means an entity that obtains, attempts to obtain, or assists in obtaining a mortgage loan for a borrower from a mortgage

lender in return for consideration or in anticipation of consideration *or holds itself out as being able to assist a person in obtaining a mortgage loan*.

(b) For purposes of this subsection ~~(28)~~ *(30)*, attempting to *obtain* or assisting in obtaining a mortgage loan includes referring a borrower to a mortgage lender or mortgage broker, soliciting or offering to solicit a mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a mortgage loan with a mortgage lender on behalf of a borrower.

~~(29)~~*(31)* "Mortgage lender" means an entity that closes a residential mortgage loan, advances funds, offers to advance funds, ~~or~~ commits to advancing funds for a mortgage loan applicant*, or holds itself out as being able to perform any of those functions*.

~~(30)~~*(32)* (a) "Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan.

(b) The term includes an individual who represents to the public that the individual can or will perform the services described in subsection (32)(a).

~~(b)~~*(c)* The term does not include an individual:

(i) engaged solely as a loan processor or underwriter, except as provided in ~~32-9-129~~ *[Section 12]*; or

(ii) involved solely in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101(53D).

~~(31)~~*(33)* "Mortgage servicer" means an entity that:

(a) engages, for compensation or gain from another or on its own behalf, in the business of receiving any scheduled periodic payment from a borrower pursuant to the terms of a residential mortgage loan, residential mortgage servicing documents, or a residential mortgage servicing contract; ~~or~~

(b) meets the definition of servicer in 12 U.S.C. 2605(i)(2) with respect to residential mortgage loans~~.~~*; or*

(c) holds out to the public that the entity is able to comply with subsection (33)(a) or (33)(b).

~~(32)~~*(34)* "Nationwide mortgage licensing system and registry" or "NMLS" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the registration and licensing of persons providing nondepository financial services.

~~(33)~~*(35)* "Nontraditional mortgage product" means any mortgage product other than a 30-year, fixed-rate mortgage.

~~(34)~~*(36)* "Person" means an individual, sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, or association.

~~(35)~~*(37)* "Real estate brokerage activities" means activities that involve offering or providing real estate brokerage services to the public, including:

(a) acting as a real estate salesperson or real estate broker for a buyer, seller, lessor, or lessee of real property;

(b) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(c) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to the transaction;

(d) engaging in any activity for which a person is required to be licensed as a real estate salesperson or real estate broker under Montana law; or

(e) offering to engage in any activity or act in any capacity described in subsections ~~(35)(a)~~ *(37)(a)* through ~~(35)(d)~~ *(37)(d)*.

~~(36)~~*(38)* "Registered mortgage loan originator" means an individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is wholly owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the farm credit administration; and

(b) is registered with and maintains a unique identifier through the NMLS.

~~(37)~~*(39)* "Regularly engage" means that a person:

(a) has engaged in the business of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator on more than ~~12~~ *five* residential mortgage loans in the previous calendar year or expects to engage in the business of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator on more than ~~12~~ *five* residential mortgage loans in the current calendar year; or

(b) has served as the prospective source of financing or performed other phases of loan originations on more than ~~12~~ *five* residential mortgage loans in the previous calendar year or expects to serve as the prospective source of financing or perform some other phases of loan origination on more than ~~12~~ *five* residential mortgage loans in the current calendar year.

~~(38)~~*(40)* "Residential mortgage loan" means a loan primarily for personal, family, or household use secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate located in Montana.

~~(39)~~*(41)* "Residential real estate" means any real property located in the state of Montana upon which is constructed a dwelling or upon which a dwelling is intended to be built within a 2-year period, subject to 24 CFR 3500.5(b)(4). The borrower's intent to construct a dwelling is presumed unless the borrower has submitted a written, signed statement to the contrary.

(42) "Responsible individual" means a Montana-licensed mortgage loan originator with at least 1 1/2 years of experience as a mortgage loan originator or registered mortgage loan originator who is designated by an independent contractor entity as the individual responsible for the operation of a particular location that is under the responsible individual's full management, supervision, and control.

~~(40)~~*(43)* "Ultimate equity owner" means an individual who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether the individual owns or controls an ownership interest, individually or in any combination, through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint-stock companies, or other entities or devices.

~~(41)~~*(44)* "Unique identifier" means a number or other identifier assigned by protocols established by the NMLS. (See part compiler's comment regarding contingent suspension.)"

Section 3. Section 32-9-104, MCA, is amended to read:

"32-9-104. Exemptions — proof of exemption. (1) The provisions of this part do not apply to:

(a) an entity that is an agency of the federal, state, tribal, or local government;

(b) an individual who is an employee of a federal, state, tribal, local government, or housing finance agency acting as a loan originator only pursuant to the individual's official duties as an employee of the federal, state, tribal, local government, or housing finance agency;

(c) an ~~entity~~ *entity* described in ~~32-9-103(36)(a)(i)~~ *32-9-103(38)(a)(i)* through ~~(36)(a)(iii)~~ *(38)(a)(iii)*;

(d) a registered mortgage loan originator when acting for an ~~entity~~ *entity* described in ~~32-9-103(36)(a)(i)~~ *32-9-103(38)(a)(i)* through ~~(36)(a)(iii)~~ *(38)(a)(iii)*;

(e) an individual who performs only administrative or clerical tasks at the direction of and subject to the supervision and instruction of an individual who:

(i) is a licensed and registered mortgage loan originator pursuant to this part; or

(ii) is not required to be licensed in accordance with ~~subsections~~ *subsection* (1)(b), (1)(d), or (1)(g);

(f) an entity that is a bona fide not-for-profit entity;

(g) an employee of a bona fide not-for-profit entity who acts as a loan originator only with respect to work duties for the bona fide not-for-profit entity and who acts as a loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower;

(h) a person that performs only real estate brokerage activities and is licensed or registered pursuant to 37-51-301 unless the person is compensated by a mortgage broker, a mortgage lender, or a mortgage loan originator or an agent of the mortgage broker, mortgage lender, or mortgage loan originator;

(i) a person regulated by the commissioner of insurance if that person's principal business is that of preparing abstracts or making searches of titles that are used as a basis for the issuance of any title insurance policy by a company doing business under the laws of this state relating to insurance companies;

(j) a Montana-licensed attorney performing activities that fall within the definition of a mortgage loan originator if the activities are:

(i) considered by the Montana supreme court to be part of the authorized practice of law within this state;

(ii) carried out within an attorney-client relationship; and

(iii) accomplished by the attorney in compliance with all applicable laws, rules, and standards; or

(k) an individual who is an employee of a retailer of manufactured or modular homes if the employee is performing only administrative or clerical tasks in connection with the sale or lease of a manufactured or modular home and if the individual receives no compensation or other gain from a mortgage lender or a mortgage broker for the performance of the administrative or clerical tasks.

(2) (a) To qualify for an exemption under subsection (1)(f), an entity shall certify, on a form prescribed by the department, that it is a bona fide not-for-profit entity and shall provide additional documentation as required by the department by rule. To maintain this exemption, the entity shall file the prescribed certification and accompanying documentation by December 31 of each year.

(b) In determining ~~if~~ *whether* an entity is a bona fide not-for-profit entity, the department may rely on its receipt and review of:

(i) reports filed with federal, state, tribal, local government, or housing finance agencies and authorities; or

(ii) reports and attestations prescribed by the department.

(3) The burden of proving an exemption under this section is on the person claiming the exemption.

~~(4) A person who is exempt from licensure or is not required to be licensed or registered under this part may register on the NMLS as an exempt registrant for purposes of sponsoring a mortgage loan originator and for purposes of satisfying the mortgage loan originator bonding requirements.~~ (See part compiler's comment regarding contingent suspension.)"

Section 4. Section 32-9-105, MCA, is amended to read:

"32-9-105. Nationwide mortgage licensing system for mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators. (1) The department may participate in the NMLS and shall require mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators to apply for state licensure on applications approved by the NMLS.

(2) The department may establish requirements through rulemaking as necessary to comply with the NMLS, including requirements:

(a) for payment of nonrefundable fees to apply for, maintain, and renew licenses through the NMLS;

(b) for renewal or reporting dates;

~~(c) for procedures to amend or to surrender a license;~~ and

~~(d)~~*(c)* pertaining to any other activity necessary for participation in the NMLS.

(3) The department's portion of the licensing fees collected by the NMLS under this section must be deposited in the department's account in the state special revenue fund to be used for administering this part. (See part compiler's comment regarding contingent suspension.)"

Section 5. Section 32-9-107, MCA, is amended to read:

"32-9-107. Prelicensing education requirements for mortgage loan originators. (1) An individual seeking a mortgage loan originator's license shall complete at least 20 hours of approved education courses, which must include at least:

(a) 3 hours of training on federal law and regulations;

(b) 3 hours of training in ethics, including instruction on fraud, consumer protection, and fair lending issues; and

(c) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) In addition to the training required in ~~subsection~~ *subsections* (1)*(a), (1)(b), and (1)(c)*, the department may require by rule that applicants complete

additional hours of training that are specific to Montana residential mortgage statutes and rules.

(3) The prelicensing education courses that comply with the requirements of subsection (1) and that are approved by the NMLS for any other state must be accepted with respect to the completion of prelicensing education requirements in Montana. (See part compiler's comment regarding contingent suspension.)"

Section 6. Section 32-9-109, MCA, is amended to read:

"32-9-109. Experience requirements. (1) An individual may not act as a designated manager without a minimum of 3 years of experience working as a mortgage loan originator or in a related field.

(2) An individual may not act as a responsible individual without a minimum of 1 1/2 years of experience working as a mortgage loan originator or in a related field.

~~(2)~~*(3)* The department shall by rule establish what constitutes work in a related field. (See part compiler's comment regarding contingent suspension.)"

Section 7. Section 32-9-112, MCA, is amended to read:

"32-9-112. Application for mortgage broker, mortgage lender, mortgage servicer, and mortgage loan originator license — renewals. (1) An applicant under this part shall apply for a state license or renewal of a license on ~~a form~~ *the forms* prescribed by the ~~department that complies with the requirements of the~~ NMLS. ~~Each form must contain content as set forth by the NMLS and may be changed or updated by the department as necessary to comply with the NMLS.~~ *The department shall use the NMLS forms and policies for all licensing actions.*

(2) The department may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this part.

(3) An applicant for a license or license renewal shall furnish information to the NMLS concerning the applicant's identity, including but not limited to:

(a) fingerprints for submission to the federal bureau of investigation and any governmental agency or entity authorized to receive information for a state, national, and international criminal history background check; and

(b) personal history and experience in a form prescribed by the NMLS, including submission of authorization for the NMLS and the department to obtain:

(i) an independent credit report from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p); and

(ii) information related to administrative, civil, or criminal findings by a governmental jurisdiction.

(4) For the purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain for purposes of subsection (3), the department may use the NMLS as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agencies.

(5) For the purposes of this section and to reduce the points of contact that the department may have to maintain for purposes of subsection (3), the department may use the NMLS as a channeling agent for requesting and distributing information to and from any source directed by the department. (See part compiler's comment regarding contingent suspension.)"

Section 8. Section 32-9-113, MCA, is amended to read:

"32-9-113. ~~Application~~ *Control persons — application* for license — renewal. ~~In order for~~ *For the department to consider* an entity ~~to be considered~~ for a state license or license renewal, each ~~of the following~~ *person with control, as defined in 32-9-103, of the entity* is required to independently meet the requirements established in 32-9-120(1)(a) through (1)(c) and (1)(g)~~:~~.

~~(1) ultimate equity owners of 25% or more of the applicant if the equity owners are individuals;~~

~~(2) control persons of the applicant if the control persons are individuals; and~~

~~(3) individuals that control, directly or indirectly, the election of 25% or more of the members of the board of directors of the entity.~~ (See part compiler's comment regarding contingent suspension.)"

Section 9. Section 32-9-122, MCA, is amended to read:

"32-9-122. Designated manager and branch office license requirements. (1) A mortgage broker, mortgage lender, or mortgage servicer shall apply for a license for a main office and for every branch office through the NMLS and maintain a unique identifier. *All locations must be within the United States or a territory, including Puerto Rico and the U.S. Virgin Islands.*

(2) A mortgage broker or mortgage lender shall designate to the NMLS for each office that originates a residential mortgage loan an individual who is licensed as a mortgage loan originator as the designated manager of the main office and shall designate a separate designated manager to serve each branch office that originates a residential mortgage loan.

(3) A designated manager must have 3 years of experience as either a mortgage loan originator or a registered mortgage loan originator.

(4) A designated manager is responsible for the operation of the business at the location under the designated manager's full charge, supervision, and control.

(5) A mortgage broker or mortgage lender is responsible for the conduct of its employees, including for violations of ~~federal laws and regulations that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part~~ *federal or state laws, rules, or regulations*.

(6) A designated manager is responsible for conduct that violates ~~federal laws and regulations that are applicable to the origination of residential mortgage loans, violations of this part, and violations of any administrative rule adopted pursuant to this part. The designated manager's responsibility includes conduct~~ *federal or state laws, rules, or regulations* by the designated manager and each employee of the mortgage broker or mortgage lender at the location that the designated manager manages.

(7) If the designated manager ceases to act in that capacity, within 15 days the mortgage broker or mortgage lender shall designate another individual licensed as a mortgage loan originator as designated manager and shall submit information to the NMLS establishing that the subsequent designated manager is in compliance with the provisions of this part.

(8) If the employment of a designated manager is terminated, the mortgage broker or mortgage lender shall remove the sponsorship of the designated manager on the NMLS within 5 business days of the termination.

(9) A mortgage servicer is responsible for the acts and omissions of its employees, agents, and independent contractors acting in the course and scope of their employment, agency, or contract. (See part compiler's comment regarding contingent suspension.)"

Section 10. Section 32-9-123, MCA, is amended to read:

"32-9-123. Surety bond requirement — notice of legal action. (1) (a) A mortgage loan originator must be covered by a surety bond in accordance with this section. If a mortgage loan originator is an employee of a licensed mortgage lender or mortgage broker, the surety bond of the licensed mortgage lender or mortgage broker may be used in lieu of a mortgage loan originator's surety bond.

(b) The bond must run to the state of Montana as obligee and must run first to the benefit of the borrower and then to the benefit of the state and any person who suffers loss by reason of the obligor's or its loan originator's violation of any provision of this part or rules adopted under this part. The department shall use the proceeds of the surety bonds to reimburse borrowers, the department, or bona fide third parties who successfully demonstrate a financial loss because of an act of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator that violates any provision of this part.

(2) (a) An entity licensed as a mortgage broker, mortgage lender, and mortgage servicer is required to maintain one surety bond for each entity license.

(b) The amount of the required surety bond must be calculated by combining the annual loan production amounts for all persons originating residential mortgage loans and for all business locations of the mortgage broker or mortgage lender and must be in the following amount:

(i) $25,000 for a combined annual loan production that does not exceed $50 million a year;

(ii) $50,000 for annual loan production of $50 million but not exceeding $100 million a year; or

(iii) $100,000 for annual loan production of more than $100 million a year.

(c) The amount of the required surety bond for a mortgage servicer is $100,000.

(3) A mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator shall give notice to the department by certified mail *or through the NMLS* within 15 days of the mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator obtaining knowledge of the initiation of an investigation or the entry of a judgment in a criminal or civil action. The notice must be given if the investigation or the legal action is in any state and involves a mortgage broker, a mortgage lender, a mortgage servicer, a mortgage loan originator, or anyone having an ownership interest in a mortgage broker entity, mortgage lender entity, or mortgage servicer entity. In the case of a legal action, the notice must include a copy of the criminal or civil judgment.

(4) (a) An obligor shall give written notice to the department *through the NMLS* of any action that may be brought against it by any creditor or borrower when the action:

(i) is brought under this part;

(ii) involves a claim against the bond filed with the department for the purposes of compliance with this section; or

(iii) involves a claim for damages in excess of $20,000 for a mortgage broker or mortgage loan originator or $200,000 for a mortgage lender or mortgage servicer.

(b) An obligor shall give written notice to the department *through the NMLS* of any judgment that may be entered against it by any creditor or any borrower or prospective borrower.

(c) The written notice must provide details sufficient to identify the action or judgment and must be submitted within 30 days after the commencement of any action or within 30 days after the entry of any judgment.

(5) A corporate surety shall, within 10 days after it pays any claim or judgment to any claimant, give written notice to the department of the payment with details sufficient to identify the claimant and the claim or judgment paid. Whenever the principal sum of a required bond is reduced by one or more recoveries or payments on the bond, the obligor shall furnish a new or additional bond so that the total or aggregate principal sum of the bond or bonds equals the sum required under this section or the obligor shall furnish an endorsement duly executed by the corporate surety reinstating the bond to the required principal sum.

(6) A bond filed with the department *or with the NMLS* for the purpose of compliance with this section may not be canceled by the obligor or the corporate surety except upon written notice to the department *through the NMLS*. The cancellation may not take effect until 30 days after receipt by the department of the notice. The cancellation is effective only with respect to any occurrence after the effective date of the cancellation. (See part compiler's comment regarding contingent suspension.)"

Section 11. Section 32-9-129, MCA, is amended to read:

"32-9-129. Loan processors and underwriters. ~~(1)~~ A person engaging in loan processor or underwriter activities may not represent to the public, through advertising or other means of communication, ~~including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items,~~ that the person can or will perform any of the activities of a mortgage loan originator.

~~(2) An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter with respect to any dwelling or residential real estate in this state unless the individual first registers as a mortgage loan originator through and obtains a unique identifier from the NMLS and obtains and maintains a valid mortgage loan originator license.~~

~~(3) For purposes of this section, "residential mortgage loan origination activities" means all activities related to residential mortgage loans from the taking of a residential mortgage loan application through the completion of all required loan closing documents and funding of the residential mortgage loan.~~ (See part compiler's comment regarding contingent suspension.)"

Section 12. Independent contractor entity — responsible individual — loan processor or underwriter. (1) An independent contractor entity may not offer or engage in clerical or support duties with respect to any dwelling or residential real estate in this state unless the independent contractor entity obtains and maintains a valid mortgage broker license through the NMLS.

(2) An independent contractor entity shall apply for a mortgage broker license through the NMLS for its main office and for every branch office where clerical or support duties are conducted.

(3) An independent contractor entity shall designate a responsible individual for each main office and each branch office. The responsible individual must be an employee of the independent contractor entity.

(4) The responsible individual is responsible for the operation of the business at the responsible individual's place of employment under the responsible individual's full charge, supervision, and control.

(5) An independent contractor entity is responsible for the conduct and omissions of its employees, agents, and independent contractors, including for violations of federal or state laws, rules, or regulations.

(6) A responsible individual is responsible for conduct that violates federal or state laws, rules, or regulations. The responsible individual's responsibility includes conduct by the responsible individual and each employee and agent of the independent contractor entity at the location that the responsible individual manages.

(7) If the responsible individual ceases to act in that capacity, the independent contractor entity shall within 15 days designate as responsible individual another individual who is a licensed or registered mortgage loan originator and shall submit information to the NMLS establishing that the subsequent responsible individual is in compliance with the provisions of this part.

(8) If the employment of a responsible individual is terminated, the independent contractor entity shall remove the sponsorship of the responsible individual on the NMLS within 5 business days of the termination.

(9) An individual who is employed by an independent contractor entity and who performs only clerical or support duties and does so at the direction of and subject to the supervision and instruction of a responsible individual is not required to be licensed under this part.

Section 13. Section 32-9-130, MCA, is amended to read:

"32-9-130. Department authority — rulemaking. (1) The department shall adopt rules necessary to carry out the intent and purposes of this part. The rules adopted are binding on all licensees and enforceable as provided under this part.

(2) The rules must address:

(a) revocation or suspension of licenses for cause;

(b) investigation of applicants, licensees, and unlicensed persons alleged to have violated a provision of this part and handling of complaints made by any person in connection with any business transacted by a licensee;

(c) (i) ensuring that all persons are informed of their right to contest a decision by the department under the Montana Administrative Procedure Act; and

(ii) holding contested case hearings pursuant to the Montana Administrative Procedure Act and issuing cease and desist orders, orders of restitution, and orders for the recovery of administrative costs; *and*

~~(d) prescribing forms for applications; and~~

~~(e)~~*(d)* establishing fees for license renewals.

(3) The department may seek a writ or order restraining or enjoining, temporarily or permanently, any act or practice violating any provision of this part.

(4) (a) For the purposes of investigating violations or complaints arising under this part or for the purposes of examination, the department may review,

investigate, or examine any licensee or person subject to this part as often as necessary in order to carry out the purposes of this part.

(b) The commissioner may direct, subpoena, or order the attendance of and may examine under oath any person whose testimony may be required about the subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the commissioner considers relevant to the inquiry.

(5) Each licensee or person subject to this part shall make available to the department upon request the documents and records relating to the operations of the licensee or person. The department may access the documents and records and may interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, or customers of the licensee or person concerning the business of the licensee or person or any other person having knowledge that the department considers relevant.

(6) (a) The department may conduct investigations and examinations for the purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation, or license termination or to determine compliance with this part.

(b) The department has the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including but not limited to:

(i) criminal, civil, and administrative history information, including confidential criminal justice information as defined in 44-5-103;

(ii) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq.; and

(iii) any other documents, information, or evidence the department considers relevant to an inquiry or investigation regardless of the location, possession, control, or custody of the documents, information, or evidence.

(7) (a) The total cost for any examination or investigation must be in accordance with fees determined by the department by rule pursuant to this section and may include expenses for necessary travel outside the state for the purposes of conducting the examination or investigation. The fees set by the department must be commensurate with the cost of the examination or investigation. All fees collected under this section must be deposited in the department's account in the state special revenue fund to be used by the department to cover the department's cost of conducting examinations and investigations.

(b) The cost of an examination or investigation must be paid by the licensee or person within 30 days after the date of the invoice. Failure to pay the cost of an examination or investigation when due must result in the suspension or revocation of a licensee's license.

(8) (a) The department may:

(i) exchange information with federal and state regulatory agencies, the attorney general, the attorney general's consumer protection office, and the legislative auditor;

(ii) exchange information other than confidential information with the mortgage asset research institute, inc., and other similar organizations; and

(iii) refer any matter to the appropriate law enforcement agency for prosecution of a violation of this part.

(b) To carry out the purposes of this section, the department may:

(i) enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce the regulatory burden by sharing resources, adopting standardized or uniform methods or procedures, and sharing documents, records, information, or evidence obtained under this part, including agreements to maintain the confidentiality of information under laws, rules, or evidentiary privileges of another state, the federal government, or this state;

(ii) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(iii) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee or person subject to this part;

(iv) accept and rely on examination or investigation reports by other government officials, within or outside of this state, without the loss of any privileges or confidentiality protection afforded by state or federal laws, rules, or evidentiary privileges that cover those reports;

(v) accept audit reports made by an independent certified public accountant for the licensee or person subject to this part if the examination or investigation covers at least in part the same general subject matter as the audit report and may incorporate the audit report in the report of the examination, report of the investigation, or other writing of the department under this part; and

(vi) assess against the licensee or person subject to this part the costs incurred by the department in conducting the examination or investigation.

(c) Except as provided in 32-9-160 and subsection (8)(a)(i) of this section, the department shall treat all confidential criminal justice information as confidential unless otherwise required by law.

(9) Pursuant to section 1508(d) of the of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, the department is authorized to:

(a) supervise and enforce the provisions of this part, including the suspension, termination, revocation, or nonrenewal of a license for violation of state or federal law;

(b) participate in the NMLS;

(c) ensure that all mortgage broker, mortgage lender, and mortgage loan originator applicants under this part apply for state licensure and pay any required nonrefundable fees to and maintain a valid unique identifier issued by the NMLS; and

(d) regularly report violations of state or federal law and enforcement actions to the NMLS.

~~(10) (a) The department may, if the U.S. consumer financial protection bureau determines that a provision of this part does not meet the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act, Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, or that additional persons are subject to this part, refrain from enforcing the provision that is determined to be noncompliant and shall by rule invalidate any noncompliant exemption to this part or require that additional persons be temporarily subject to this part to be compliant with federal law, including the provisions for licensure and registration with and maintenance of a valid unique identifier with the NMLS.~~

~~(b) The department shall propose to the regular session of the legislature that follows the determination by the U.S. consumer financial protection bureau legislation to address the incompatibility with federal law. The provisions that the U.S. consumer financial protection bureau determines to not be in compliance with the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act, Public Law 110-289, must be amended in the correcting legislation.~~

~~(11) The department may be approved by the NMLS as a provider of educational courses. If the department chooses to become an approved provider of educational courses, it may charge fees to attendees. The amount of the fees must be set by rule and must be commensurate with the total course costs, including the costs of becoming an approved provider. All fees collected under this section must be deposited in the department's account in the state special revenue fund to be used by the department to cover the department's cost of presenting education courses.~~ (See part compiler's comment regarding contingent suspension.)"

Section 14. Section 32-9-166, MCA, is amended to read:

"32-9-166. Reports. (1) A licensee shall file a written report with the department *through the NMLS* within 30 business days of any material change to the information provided in a licensee's application.

(2) A licensee shall file a written report with the department within 1 business day after the licensee has reason to know of the occurrence of any of the following:

(a) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. 101, et seq., for bankruptcy or reorganization;

(b) the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization, or the making of a general assignment for the benefit of the licensee's creditors;

(c) the licensee's decision to cease doing business for any reason;

(d) the commencement of a proceeding to revoke or suspend the licensee's license in a state in which the licensee engages in business or is licensed;

(e) the cancellation or other impairment of the licensee's or an exempt company's bond; or

(f) a felony conviction of the licensee, employee of a licensee, or control person of a licensee.

(3) A licensee shall file a written report with the department *through the NMLS* within 15 business days after the licensee has reason to know of the occurrence of any of the following:

(a) fraud, theft, or conversion by a borrower against the licensee;

(b) fraud, theft, or conversion by a licensee; or

(c) fraud, theft, or conversion by an employee or independent contractor of a licensee;

(d) violation of a provision of 32-9-124;

(e) the discharge of any employee or termination of an independent contractor for dishonest or fraudulent acts; or

(f) any administrative, civil, or criminal action initiated against the licensee or any of its control persons by any government entity.

(4) (a) In the absence of malice, fraud, or bad faith, a person may not be subjected to civil liability arising from the filing of a complaint with the

department or furnishing of other information required by this section or required by the department under the authority granted in this section.

(b) In the absence of malice, fraud, or bad faith, a civil cause of action of any nature may not be brought against a person for any information:

(i) relating to suspected prohibited acts and furnished to or received from law enforcement officials, their agents, or employees or furnished to or received from other regulatory or licensing authorities;

(ii) furnished to or received from other persons subject to the provisions of this part; or

(iii) furnished in complaints filed with the department."

Section 15. Section 32-9-169, MCA, is amended to read:

"32-9-169. Mortgage servicer prohibitions. A mortgage servicer may not:

(1) fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601, et seq., and regulations adopted under that act;

(2) fail to comply with applicable state and federal laws*, rules,* and regulations related to mortgage servicing;

(3) fail to provide written notice to a borrower upon taking action to place hazard, homeowner's, or flood insurance on the mortgaged property or to place the insurance when the mortgage servicer knows or has reason to know that there is insurance in effect;

(4) place hazard, homeowner's, or flood insurance on a mortgaged property for an amount that exceeds either the value of the insurable improvements or the last-known coverage amount of insurance;

(5) fail to provide to the borrower a refund of unearned premiums paid by a borrower or charged to the borrower for hazard, homeowner's, or flood insurance placed by a mortgage lender or mortgage servicer if the borrower provides reasonable proof that the borrower has obtained coverage so that the forced placement is no longer necessary and the property is insured. If the borrower provides reasonable proof within 12 months of the placement that no lapse in coverage occurred so that the forced placement was not necessary, the mortgage servicer shall refund the entire premium.

(6) fail to make all payments from any escrow account held for the borrower for insurance, taxes, and other charges with respect to the property in a timely manner so as to ensure that late penalties are not assessed or other negative consequences result regardless of whether the loan is delinquent unless there are not sufficient funds in the account to cover the payments and the mortgage servicer has a reasonable basis to believe that recovery of the funds will not be possible."

Section 16. Section 32-9-170, MCA, is amended to read:

"32-9-170. Mortgage servicer duties. In addition to any duties imposed by federal law or regulations or the common law, a mortgage servicer shall:

(1) safeguard and account for any money handled for the borrower;

(2) follow reasonable and lawful instructions from the borrower;

(3) act with reasonable skill, care, and diligence;

(4) comply with the servicing standards set by the department by rule;

~~(4)~~*(5)* file with the department a complete, current schedule of the ranges of costs and fees the mortgage servicer charges borrowers for servicing-related activities with the mortgage servicer's application and renewal and with any supplemental filings made from time to time;

~~(5)~~*(6)* file with the department upon request a report in a form and format set forth by the department by rule detailing the mortgage servicer's activities in this state;

~~(6)~~*(7)* at the time the mortgage servicer accepts assignment of servicing rights for a mortgage loan, disclose to the borrower:

(a) any notice required under federal law or regulation; and

(b) a schedule of the ranges and categories of the mortgage servicer's costs and fees for its servicing-related activities, which may not exceed those reported to the department; and

~~(7)~~*(8)* in the event of a delinquency or other act of default on the part of the borrower, act in good faith to inform the borrower of the facts concerning the loan and the nature and extent of the delinquency or default and, if the borrower replies, negotiate with the borrower, subject to the mortgage servicer's duties and obligations under the mortgage servicing contract, if any, to attempt a resolution or workout pertaining to the delinquency or default."

Section 17. Codification instruction. [Section 12] is intended to be codified as an integral part of Title 32, chapter 9, part 1, and the provisions of Title 32, chapter 9, part 1, apply to [section 12].

Section 18. Effective date. [This act] is effective October 1, 2015.

Approved February 17, 2015

CHAPTER NO. 25

[HB 32]

AN ACT CREATING THE OFFENSE OF MISUSE OF CONFIDENTIAL CRIMINAL JUSTICE INFORMATION; AND PROVIDING PENALTIES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Misuse of confidential criminal justice information. (1) A person commits the offense of misuse of confidential criminal justice information if the person is entitled to directly access the criminal justice information network and purposely or knowingly:

(a) accesses the criminal justice information network for personal use or financial gain; or

(b) disseminates information accessed from the criminal justice information network to any person who is not authorized to receive confidential criminal justice information pursuant to 44-5-303.

(2) A person convicted of the offense of misuse of confidential criminal justice information shall be imprisoned in the county jail for a term not to exceed 6 months and be fined an amount not less than $500.

(3) For purposes of this section, the following definitions apply:

(a) "Confidential criminal justice information" has the meaning provided in 44-5-103.

(b) "Criminal justice information network" has the meaning provided in 44-2-301.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 7, and the provisions of Title 45, chapter 7, apply to [section 1].

Approved February 18, 2015

CHAPTER NO. 26

[HB 41]

AN ACT REVISING TAX APPEAL LAWS; ALLOWING CERTAIN INDUSTRIAL PROPERTY TAXPAYERS TO APPEAL TO THE STATE TAX APPEAL BOARD OR THE COUNTY TAX APPEAL BOARD; PROVIDING THAT THE STATE TAX APPEAL BOARD'S REVIEW OF INDUSTRIAL PROPERTY APPEALS MUST BE DE NOVO; CLARIFYING APPEALS THAT MUST BE MADE TO THE STATE TAX APPEAL BOARD; AND AMENDING SECTIONS 15-2-301, 15-2-302, AND 15-15-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) *(a)* The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state *tax appeal* board by filing with the state ~~tax appeal~~ board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint.

(c) Notice of acceptance of an appeal must be given to the county ~~tax appeal~~ board by the state ~~tax appeal~~ board.

(d) The state board shall set the appeal for hearing either in its office in the capital or *at* the county seat as the *state* board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The *state* board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) *(a)* At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony.

(c) For industrial property that is assessed annually by the department, the state board's review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) For the purpose of expediting its work, the state board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the *state* board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the *state* board. The state board shall determine the appeal on the record.

(3) ~~On all hearings at county seats~~ *In every hearing at a county seat* throughout the state, the state board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(4) ~~In~~ *Except as provided in subsection (2)(c) regarding industrial property, in* connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state ~~tax appeal~~ board may not amend or repeal any administrative rule of the department. The state ~~tax appeal~~ board shall give an administrative rule full effect unless the *state* board finds a rule arbitrary, capricious, or otherwise unlawful.

(5) The decision of the state ~~tax appeal~~ board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state ~~tax appeal~~ board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(6) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property."

Section 2. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board — hearing. (1) ~~A person may appeal to the state tax appeal board a final decision of the department of revenue involving:~~ *(a) An appeal of a final decision of the department of revenue involving one of the matters provided for in subsection (1)(b) must be made to the state tax appeal board.*

(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final decisions involving:

~~(a)~~*(i)* property centrally assessed under chapter 23;

~~(b)~~*(ii)* classification of property as new industrial property;

~~(c)~~*(iii)* any other tax, other than the property tax, imposed under this title; or

~~(d)~~*(iv)* any other matter in which the appeal is provided by law.

(2) A person may appeal the department's annual assessment of an industrial property to the state board as provided in this section or to the county tax appeal board for the county in which the property is located as provided in Title 15, chapter 15, part 1.

~~(2)~~*(3)* The appeal is made by filing a complaint with the *state* board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The *state* board shall immediately transmit a copy of the complaint to the department.

~~(3)~~*(4)* The department shall file with the *state* board an answer within 30 days following filing of a complaint.

~~(4)~~*(5)* The *state* board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act.

~~(5)~~*(6)* The decision of the state ~~tax appeal~~ board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state ~~tax appeal~~ board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Section 3. Section 15-15-103, MCA, is amended to read:

"15-15-103. Examination of applicant — failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county ~~tax appeal~~ board hearing. An appeal of the *county* board's decision may not be made to the state tax appeal board unless the person or the person's agent has exhausted the remedies available through the county ~~tax appeal~~ board. In order to exhaust the remedies, the person or the person's agent shall attend the county ~~tax appeal~~ board hearing. On written request by the person or the person's agent and on the written concurrence of the department, the county ~~tax appeal~~ board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county ~~tax appeal~~ board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the state ~~tax appeal~~ board. The date of the hearing, the proceedings before the *county* board, and the decision must be entered upon the minutes of the *county* board, and the *county* board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county ~~tax appeal~~ board must be transmitted to the state ~~tax appeal~~ board no later than 3 days after the *county* board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county ~~tax appeal~~ board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the *county* board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

(i) those listed in 15-2-302*(1)*; and

(ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the *county* board during its current session.

(b) The county ~~tax appeal~~ board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the state ~~tax appeal~~ board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property."

Approved February 18, 2015

CHAPTER NO. 27

[HB 52]

AN ACT REVISING LAWS RELATED TO THE USE OF ELECTRONIC SIGNATURES; ALLOWING THE DIRECTORS OF THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF TRANSPORTATION TO ACCEPT DOCUMENTS ELECTRONICALLY; AMENDING SECTION 15-1-208, MCA; REPEALING SECTION 16-11-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-208, MCA, is amended to read:

"15-1-208. Signature alternatives for electronically filed returns. ~~For purposes of Title 15, chapters 1, 2, 6 through 10, 15 through 18, 23, 24, 30 through 33, 35 through 38, 44, 50, 51, 53, 59 through 61, and 65, and Title 16, chapter 11, the~~ *(1) The* director of revenue~~, and for the purposes of Title 15, chapter 70, the~~ *may accept tax returns, reports, and documents filed electronically and may prescribe, by rule, methods for signing, subscribing, or verifying electronically filed tax returns, reports, and documents for the purposes of Title 10, chapter 4, part 2, all chapters in Title 15 except chapter 70, Title 16, Title 53, chapter 19, part 3, 69-1-223, 69-1-402, and Title 70, chapter 9, part 8.*

(2) The director of the department of transportation~~,~~ may *accept tax returns, reports, and documents filed electronically and may* prescribe, by rule, methods for signing, subscribing, or verifying electronically filed tax returns *for the purposes of Title 15, chapter 70*.

(3) Returns*, reports, and documents* electronically filed in accordance with *this section or* the methods adopted by rule have the same validity and consequences as physical forms signed by a taxpayer."

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

16-11-110. Signature alternatives for electronically filed returns.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 28

[HB 57]

AN ACT ENHANCING PROTECTIONS FROM SECURITIES FRAUD FOR THE ELDERLY OR PERSONS WITH DEVELOPMENTAL DISABILITIES; INCREASING ACCESS TO THE SECURITIES ASSISTANCE RESTITUTION FUND FOR THE ELDERLY OR PERSONS WITH DEVELOPMENTAL DISABILITIES; AMENDING SECTIONS 30-10-103, 30-10-305, 30-10-306, 30-10-1003, AND 30-10-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-103, MCA, is amended to read:

"30-10-103. (Temporary) Definitions. When used in parts 1 through 3 and 10 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(b) The term does not include:

(i) a salesperson, issuer, bank, savings institution, trust company, or insurance company; or

(ii) a person who does not have a place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing

trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustee.

(2) "Commissioner" means the securities commissioner provided for in 2-15-1901.

(3) (a) "Commodity" means:

(i) any agricultural, grain, or livestock product or byproduct;

(ii) any metal or mineral, including a precious metal, or any gem or gem stone, whether characterized as precious, semiprecious, or otherwise;

(iii) any fuel, whether liquid, gaseous, or otherwise;

(iv) foreign currency; and

(v) all other goods, articles, products, or items of any kind.

(b) Commodity does not include:

(i) a numismatic coin with a fair market value at least 15% higher than the value of the metal it contains;

(ii) real property or any timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of the real property; or

(iii) any work of art offered or sold by an art dealer at public auction or offered or sold through a private sale by the owner.

(4) "Commodity Exchange Act" means the federal statute of that name.

(5) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the Commodity Exchange Act.

(6) (a) "Commodity investment contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. Any commodity investment contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes.

(b) A commodity investment contract does not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement. The purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(7) (a) "Commodity option" means any account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(b) The term does not include an option traded on a national securities exchange registered with the U.S. securities and exchange commission.

(8) (a) "Federal covered adviser" means a person who is registered under section 203 of the Investment Advisers Act of 1940.

(b) A federal covered adviser is not an investment adviser as defined in subsection (11).

(9) "Federal covered security" means a security that is a covered security under section 18(b) of the Securities Act of 1933 or rules promulgated by the commissioner.

(10) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(11) (a) "Investment adviser" means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(b) The term includes a financial planner or other person who:

(i) as an integral component of other financially related services, provides the investment advisory services described in subsection (11)(a) to others for compensation, as part of a business; or

(ii) represents to any person that the financial planner or other person provides the investment advisory services described in subsection (11)(a) to others for compensation.

(c) Investment adviser does not include:

(i) an investment adviser representative;

(ii) a bank, savings institution, trust company, or insurance company;

(iii) a lawyer or accountant whose performance of these services is solely incidental to the practice of the person's profession or who does not accept or receive, directly or indirectly, any commission, payment, referral, or other remuneration as a result of the purchase or sale of securities by a client, does not recommend the purchase or sale of specific securities, and does not have custody of client funds or securities for investment purposes;

(iv) a registered broker-dealer whose performance of services described in subsection (11)(a) is solely incidental to the conduct of business and for which the broker-dealer does not receive special compensation;

(v) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form or by electronic means or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(vi) a person whose advice, analyses, or reports relate only to securities exempted by 30-10-104(1);

(vii) an engineer or teacher whose performance of the services described in subsection (11)(a) is solely incidental to the practice of the person's profession;

(viii) a federal covered adviser; or

(ix) other persons not within the intent of this subsection (11) as the commissioner may by rule or order designate.

(12) (a) "Investment adviser representative" means:

(i) any partner of, officer of, director of, or a person occupying a similar status or performing similar functions, or other individual, except clerical or

ministerial personnel, employed by or associated with an investment adviser who:

(A) makes any recommendation or otherwise renders advice regarding securities to clients;

(B) manages accounts or portfolios of clients;

(C) solicits, offers, or negotiates for the sale or sells investment advisory services; or

(D) supervises employees who perform any of the foregoing; and

(ii) with respect to a federal covered adviser, any person who is an investment adviser representative with a place of business in this state as those terms are defined by the securities and exchange commission under the Investment Advisers Act of 1940.

(b) The term does not include a salesperson registered pursuant to 30-10-201(1) whose performance of the services described in subsection (12)(a) of this section is solely incidental to the conduct of business as a salesperson and for which the salesperson does not receive special compensation other than fees relating to the solicitation or offering of investment advisory services of a registered investment adviser or of a federal covered adviser who has made a notice filing under parts 1 through 3 and 10 of this chapter.

(13) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(14) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(15) "Offer" or "offer to sell" includes each attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value.

(16) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(17) "Precious metal" means the following, in coin, bullion, or other form:

(a) silver;

(b) gold;

(c) platinum;

(d) palladium;

(e) copper; and

(f) other items as the commissioner may by rule or order specify.

(18) "Registered broker-dealer" means a broker-dealer registered pursuant to 30-10-201.

(19) "Sale" or "sell" includes each contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

(20) (a) "Salesperson" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. A partner, officer, or director of a broker-dealer or issuer is a salesperson only if the person otherwise comes within this definition.

(b) Salesperson does not include an individual who represents:

(i) an issuer in:

(A) effecting a transaction in a security exempted by 30-10-104(1) through (3) or (8) through (11);

(B) effecting transactions exempted by 30-10-105, except when registration as a salesperson, pursuant to 30-10-201, is required by 30-10-105 or by any rule promulgated under 30-10-105;

(C) effecting transactions in a federal covered security described in section 18(b)(4)(D) of the Securities Act of 1933 if a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; or

(D) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or

(ii) a broker-dealer in effecting in this state solely those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934.

(21) "Securities Act of 1933", "Securities Exchange Act of 1934", "Energy Policy Act of 2005", "Investment Advisors Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names.

(22) (a) "Security" means any:

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) commodity investment contract;

(vi) commodity option;

(vii) debenture;

(viii) evidence of indebtedness;

(ix) certificate of interest or participation in any profit-sharing agreement;

(x) collateral-trust certificate;

(xi) preorganization certificate or subscription; transferable shares;

(xii) investment contract;

(xiii) voting-trust certificate;

(xiv) certificate of deposit for a security;

(xv) viatical settlement purchase agreement;

(xvi) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease; or

(xvii) in general:

(A) interest or instrument commonly known as a security;

(B) put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest in a security or based on the value of a security; or

(C) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items in this subsection (22)(a)(xvii).

(b) Security does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period.

(23) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(24) "Transact", "transact business", or "transaction" includes the meanings of the terms "sale", "sell", and "offer".

(25) "Vulnerable person" means:

(a) a person who is at least 60 years of age;

(b) a person who suffers from mental impairment because of frailties or dependencies typically related to advanced age, such as dementia or memory loss; or

(c) a person who has a developmental disability as defined in 53-20-102.
(Terminates June 30, 2017—sec. 16, Ch. 58, L. 2011.)

30-10-103. (Effective July 1, 2017) Definitions. When used in parts 1 through 3 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(b) The term does not include:

(i) a salesperson, issuer, bank, savings institution, trust company, or insurance company; or

(ii) a person who does not have a place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustee.

(2) "Commissioner" means the securities commissioner of this state.

(3) (a) "Commodity" means:

(i) any agricultural, grain, or livestock product or byproduct;

(ii) any metal or mineral, including a precious metal, or any gem or gem stone, whether characterized as precious, semiprecious, or otherwise;

(iii) any fuel, whether liquid, gaseous, or otherwise;

(iv) foreign currency; and

(v) all other goods, articles, products, or items of any kind.

(b) Commodity does not include:

(i) a numismatic coin with a fair market value at least 15% higher than the value of the metal it contains;

(ii) real property or any timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of the real property; or

(iii) any work of art offered or sold by an art dealer at public auction or offered or sold through a private sale by the owner.

(4) "Commodity Exchange Act" means the federal statute of that name.

(5) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the Commodity Exchange Act.

(6) (a) "Commodity investment contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. Any commodity investment contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes.

(b) A commodity investment contract does not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement. The purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(7) (a) "Commodity option" means any account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(b) The term does not include an option traded on a national securities exchange registered with the U.S. securities and exchange commission.

(8) (a) "Federal covered adviser" means a person who is registered under section 203 of the Investment Advisers Act of 1940.

(b) The term does not include a person who would be exempt from the definition of investment adviser pursuant to subsection (11)(c)(i), (11)(c)(ii), (11)(c)(iii), (11)(c)(iv), (11)(c)(v), (11)(c)(vi), (11)(c)(vii), or (11)(c)(ix).

(9) "Federal covered security" means a security that is a covered security under section 18(b) of the Securities Act of 1933 or rules promulgated by the commissioner.

(10) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(11) (a) "Investment adviser" means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(b) The term includes a financial planner or other person who:

(i) as an integral component of other financially related services, provides the investment advisory services described in subsection (11)(a) to others for compensation, as part of a business; or

(ii) represents to any person that the financial planner or other person provides the investment advisory services described in subsection (11)(a) to others for compensation.

(c) Investment adviser does not include:

(i) an investment adviser representative;

(ii) a bank, savings institution, trust company, or insurance company;

(iii) a lawyer or accountant whose performance of these services is solely incidental to the practice of the person's profession or who does not accept or receive, directly or indirectly, any commission, payment, referral, or other remuneration as a result of the purchase or sale of securities by a client, does not recommend the purchase or sale of specific securities, and does not have custody of client funds or securities for investment purposes;

(iv) a registered broker-dealer whose performance of services described in subsection (11)(a) is solely incidental to the conduct of business and for which the broker-dealer does not receive special compensation;

(v) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form or by electronic means or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(vi) a person whose advice, analyses, or reports relate only to securities exempted by 30-10-104(1);

(vii) an engineer or teacher whose performance of the services described in subsection (11)(a) is solely incidental to the practice of the person's profession;

(viii) a federal covered adviser; or

(ix) other persons not within the intent of this subsection (11) as the commissioner may by rule or order designate.

(12) (a) "Investment adviser representative" means:

(i) any partner of, officer of, director of, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, employed by or associated with an investment adviser who:

(A) makes any recommendation or otherwise renders advice regarding securities to clients;

(B) manages accounts or portfolios of clients;

(C) solicits, offers, or negotiates for the sale or sells investment advisory services; or

(D) supervises employees who perform any of the foregoing; and

(ii) with respect to a federal covered adviser, any person who is an investment adviser representative with a place of business in this state as those terms are defined by the securities and exchange commission under the Investment Advisers Act of 1940.

(b) The term does not include a salesperson registered pursuant to 30-10-201(1) whose performance of the services described in subsection (12)(a) of this section is solely incidental to the conduct of business as a salesperson and for which the salesperson does not receive special compensation other than fees relating to the solicitation or offering of investment advisory services of a registered investment adviser or of a federal covered adviser who has made a notice filing under parts 1 through 3 of this chapter.

(13) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit

type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(14) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(15) "Offer" or "offer to sell" includes each attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value.

(16) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(17) "Precious metal" means the following, in coin, bullion, or other form:

(a) silver;

(b) gold;

(c) platinum;

(d) palladium;

(e) copper; and

(f) other items as the commissioner may by rule or order specify.

(18) "Registered broker-dealer" means a broker-dealer registered pursuant to 30-10-201.

(19) "Sale" or "sell" includes each contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

(20) (a) "Salesperson" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. A partner, officer, or director of a broker-dealer or issuer is a salesperson only if the person otherwise comes within this definition.

(b) Salesperson does not include an individual who represents:

(i) an issuer in:

(A) effecting a transaction in a security exempted by 30-10-104(1), (2), (3), (8), (9), (10), or (11);

(B) effecting transactions exempted by 30-10-105, except when registration as a salesperson, pursuant to 30-10-201, is required by 30-10-105 or by any rule promulgated under 30-10-105;

(C) effecting transactions in a federal covered security described in section 18(b)(4)(D) of the Securities Act of 1933 if a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; or

(D) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or

(ii) a broker-dealer in effecting in this state solely those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934.

(21) "Securities Act of 1933", "Securities Exchange Act of 1934", "Energy Policy Act of 2005", "Investment Advisors Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names.

(22) (a) "Security" means any:

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) commodity investment contract;

(vi) commodity option;

(vii) debenture;

(viii) evidence of indebtedness;

(ix) certificate of interest or participation in any profit-sharing agreement;

(x) collateral-trust certificate;

(xi) preorganization certificate or subscription; transferable shares;

(xii) investment contract;

(xiii) voting-trust certificate;

(xiv) certificate of deposit for a security;

(xv) viatical settlement purchase agreement;

(xvi) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease; or

(xvii) in general:

(A) interest or instrument commonly known as a security;

(B) put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest in a security or based on the value of a security; or

(C) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items in this subsection (22)(a)(xvii).

(b) Security does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period.

(23) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(24) "Transact", "transact business", or "transaction" includes the meanings of the terms "sale", "sell", and "offer".

(25) "Vulnerable person" means:

(a) a person who is at least 60 years of age;

(b) a person who suffers from mental impairment because of frailties or dependencies typically related to advanced age, such as dementia or memory loss; or

(c) a person who has a developmental disability as defined in 53-20-102."

Section 2. Section 30-10-305, MCA, is amended to read:

"30-10-305. (Temporary) Injunctions and other remedies — limitations on actions. (1) If it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order under this chapter, the commissioner may:

(a) issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The commissioner may issue a temporary order pending the hearing that:

(i) remains in effect until 10 days after the hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(b) without the issuance of a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any acts or practices and to enforce compliance with parts 1 through 3 of this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus must be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond. If the commissioner prevails, the commissioner is entitled to reasonable attorney fees as fixed by the court.

(2) A final judgment or decree, criminal or civil, determining that a person has violated parts 1 through 3 of this chapter in an action brought by the commissioner for the violation, other than a consent judgment or decree entered before trial, is prima facie evidence against that person in an action brought against the person under 30-10-307.

(3) *(a)* The commissioner may, after giving reasonable notice and an opportunity for a hearing under this section, impose a fine not to exceed $5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order issued under parts 1 through 3 of this chapter.

(b) If the commissioner finds that a person has willfully engaged in an act or practice identified in subsection (3)(a) and the act or practice affected a vulnerable person, the commissioner may impose a fine not to exceed $20,000 per violation.

(c) ~~The~~ *A* fine *under this subsection (3)* is in addition to all other penalties imposed by the laws of this state and must be collected by the commissioner in the name of the state of Montana and deposited in the general fund.

(d) Imposition of any fine under this subsection *(3)* is an order from which an appeal may be taken pursuant to 30-10-308. If any person fails to pay a fine referred to in this subsection *(3)*, the amount of the fine is a lien upon all of the assets and property of the person in this state and may be recovered by suit by the commissioner and deposited in the general fund. Failure of the person to pay a fine also constitutes a forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

(4) (a) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability based on a violation of 30-10-201(1) through (3) or 30-10-202 unless it is brought within 2 years after the violation occurs.

(b) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability based on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter, except 30-10-201(1) through (3) and 30-10-202, unless it is brought within 2 years after discovery by the commissioner or the commissioner's staff of the facts constituting the violation.

(c) An action may not be maintained under this section to enforce any liability founded on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter unless it is brought within 5 years after the transaction on which the action is based.

(5) The commissioner in an administrative order requiring the payment of restitution or a court in a judicial order or judgment requiring payment of restitution may include a provision requiring a person determined to have violated any provision of parts 1 through 3 of this chapter to contribute an

amount to the securities restitution assistance fund created by 30-10-1004. (Terminates June 30, 2017—sec. 16, Ch. 58, L. 2011.)

30-10-305. (Effective July 1, 2017) Injunctions and other remedies — limitations on actions. (1) If it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order under this chapter, the commissioner may:

(a) issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The commissioner may issue a temporary order pending the hearing that:

(i) remains in effect until 10 days after the hearing examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(b) without the issuance of a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any acts or practices and to enforce compliance with parts 1 through 3 of this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus must be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond. If the commissioner prevails, the commissioner is entitled to reasonable attorneys' fees as fixed by the court.

(2) A final judgment or decree, criminal or civil, determining that a person has violated parts 1 through 3 of this chapter in an action brought by the commissioner for the violation, other than a consent judgment or decree entered before trial, is prima facie evidence against that person in an action brought against the person under 30-10-307.

(3) *(a)* The commissioner may, after giving reasonable notice and an opportunity for a hearing under this section, impose a fine not to exceed $5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order issued under parts 1 through 3 of this chapter.

(b) If the commissioner finds that a person has willfully engaged in any act or practice identified in subsection (3)(a) and the act or practice affected a vulnerable person, the commissioner may impose a fine not to exceed $20,000 per violation.

(c) ~~The~~ *A* fine *under this subsection (3)* is in addition to all other penalties imposed by the laws of this state and must be collected by the commissioner in the name of the state of Montana and deposited in the general fund.

(d) Imposition of any fine under this subsection *(3)* is an order from which an appeal may be taken pursuant to 30-10-308. If any person fails to pay a fine referred to in this subsection *(3)*, the amount of the fine is a lien upon all of the assets and property of the person in this state and may be recovered by suit by the commissioner and deposited in the general fund. Failure of the person to pay a fine also constitutes a forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

(4) (a) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability founded on a violation of 30-10-201(1) through (3) or 30-10-202 unless it is brought within 2 years after the violation occurs.

(b) An administrative or civil action may not be maintained by the commissioner under this section to enforce a liability founded on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter, except 30-10-201(1) through (3) and 30-10-202, unless it is brought within 2 years after discovery by the commissioner or the commissioner's staff of the facts constituting the violation.

(c) An action may not be maintained under this section to enforce any liability founded on a violation of parts 1 through 3 of this chapter or any rule or order issued under this chapter unless it is brought within 5 years after the transaction on which the action is based."

Section 3. Section 30-10-306, MCA, is amended to read:

"30-10-306. Criminal liabilities. (1) ~~Any~~ *A* person who willfully violates any provision of parts 1 through 3 of this chapter except 30-10-302, who willfully violates any rule or order under parts 1 through 3 of this chapter, or who willfully violates 30-10-302 knowing the statement made to be false or misleading in any material respect shall upon conviction be fined not more than $5,000 or imprisoned not more than 10 years, or both. However, if the person convicted has been previously convicted of a felony in any way involving securities, imprisonment for not less than 1 year is mandatory.

(2) A person who willfully violates 30-10-301 with knowledge that the violation would affect a vulnerable person shall upon conviction be fined not more than $20,000 or imprisoned not more than 20 years, or both.

(3) An indictment or information may not be returned under parts 1 through 3 of this chapter more than 8 years after the alleged violation. However, the time limitation period may be extended allowing commencement of a prosecution within 1 year after the date the commissioner or other prosecuting officer becomes aware of the violation.

~~(2)~~*(4)* The commissioner may refer evidence that may be available concerning violations of parts 1 through 3 of this chapter or of any rule or order under parts 1 through 3 of this chapter to the attorney general or the proper prosecuting attorney, who may in the prosecutor's discretion, with or without a reference, institute the appropriate criminal proceedings under parts 1 through 3 of this chapter.

~~(3)~~*(5)* Parts 1 through 3 of this chapter do not limit the power of the state to punish any person for any conduct that constitutes a crime."

Section 4. Section 30-10-1003, MCA, is amended to read:

"30-10-1003. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) "Claimant" means a person who files an application for restitution assistance under this part on behalf of a victim. The claimant and the victim may be the same but do not have to be the same. The term includes the named party in a restitution award in a final order, the executor of a named party in a restitution award in a final order, and the heirs and assigns of a named party in a restitution award in a final order.

(2) "Department" means the office of the securities commissioner established in 2-15-1901.

(3) "Final order" means a final order issued by the commissioner or a final order in a legal action initiated by the commissioner.

(4) "Fund" means the securities restitution assistance fund created by 30-10-1004.

(5) "Securities violation" means a violation of this chapter and any related administrative rules.

(6) "Victim" means a person who was awarded restitution in a final order.

(7) "Vulnerable person" means:

(a) a person who is at least 60 years of age;

(b) a person who suffers from mental impairment because of frailties or dependencies typically related to advanced age, such as dementia or memory loss; or

(c) a person who has a developmental disability as defined in 53-20-102. (Terminates June 30, 2017—sec. 16, Ch. 58, L. 2011.)"

Section 5. Section 30-10-1006, MCA, is amended to read:

"30-10-1006. (Temporary) Application for restitution assistance — maximum amount of restitution assistance award. (1) A person who is eligible for restitution assistance under this part may submit an application, in a manner and form prescribed by the commissioner, to the department.

(2) An application must be received by the department within 2 years after the deadline for payment of restitution established in the final order.

(3) ~~The~~ *Except as provided in subsection (4), the* maximum award from the fund for each claimant is the lesser of $25,000 or 25% of the amount of unpaid restitution awarded in a final order.

(4) If the claimant is a vulnerable person, the maximum award from the fund is the lesser of $50,000 or 50% of the amount of unpaid restitution awarded in the final order. (Terminates June 30, 2017—sec. 16, Ch. 58, L. 2011.)"

Section 6. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 29

[HB 67]

AN ACT REMOVING THE WALL STREET JOURNAL AS THE SOURCE FOR DETERMINING THE AVERAGE PRICE FOR A BARREL OF WEST TEXAS INTERMEDIATE CRUDE OIL; AND AMENDING SECTIONS 15-36-303, 15-36-304, AND 20-9-518, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-36-303, MCA, is amended to read:

"15-36-303. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of revenue provided for in 2-15-1301.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

(6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

(7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.

(8) "Horizontally completed well" means:

(a) a well with one or more horizontal drain holes; ~~and~~ *or*

(b) any other well classified by the board as a horizontally completed well.

(9) "Incremental production" means:

(a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of production is in excess of the production decline rate established under the conditions existing before:

(i) ~~the commencement of~~ *commencing* the recompletion of a well as a horizontally completed well;

(ii) ~~expansion of~~ *expanding* the existing enhanced recovery project; or

(iii) commencing a new enhanced recovery project; or

(b) in the case of any project that had no taxable production prior to commencing the enhanced recovery project, all production of oil from the enhanced recovery project.

(10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at the wellhead.

(11) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.

(12) "Nonworking interest owner" means any interest owner who does not share in the exploration, development, and operation costs of the lease or unit, except for production taxes.

(13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the wellhead.

(14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil or natural gas is extracted or produced.

(15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces oil or natural gas or a well that has not produced

oil or natural gas during the 5 years immediately preceding the first month of qualifying as a post-1999 well.

(16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

(17) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the natural pressure of the oil reservoir and includes artificial lift.

(18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method approved by the board, that must be determined for a project area prior to commencing a new or expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved production decline rate must be certified in writing to the department by the board. In that certification, the board shall identify the project area and shall specify the projected rate of future oil production by calendar year and by calendar quarter within each year. The certified rate of future oil production must be used to determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

(19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying production.

(b) Qualifying production does not include oil production from a horizontally recompleted well.

(20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following requirements:

(a) The project must be certified as a secondary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated according to the specifications required by the board.

(c) The project must involve the application of secondary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary recovery methods include but are not limited to:

(i) the injection of water into the producing formation for the purposes of maintaining pressure in that formation or for the purpose of increasing the flow of oil from the producing formation to a producing well bore; or

(ii) any other method approved by the board as a secondary recovery method.

(21) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(22) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but ~~less~~ *fewer* than 15 barrels a day for the calendar year

immediately preceding the current year if the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is less than $30 ~~a barrel~~. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter.

(b) The average price for a barrel is computed by dividing the sum of the daily price for *a barrel of* west Texas intermediate crude oil ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(c) Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and ~~by~~ *then* dividing the resulting quotient by 365.

(23) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be determined as provided in subsection (22)(c).

(24) "Tertiary recovery project" means an enhanced recovery project, other than a secondary recovery project, using a tertiary recovery method that meets the following requirements:

(a) The project must be certified as a tertiary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated in the certification according to the specifications required by the board.

(c) The project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary recovery methods include but are not limited to:

(i) miscible fluid displacement;

(ii) steam drive injection;

(iii) micellar/emulsion flooding;

(iv) in situ combustion;

(v) polymer augmented water flooding;

(vi) cyclic steam injection;

(vii) alkaline or caustic flooding;

(viii) carbon dioxide water flooding;

(ix) immiscible carbon dioxide displacement; ~~or~~ *and*

(x) any other method approved by the board as a tertiary recovery method.

(25) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the control of one operator or producer.

(26) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who bears any portion of the exploration, development, and operating costs of the well or wells."

Section 2. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas — exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well ~~begins~~ *begin* following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax ~~rate~~ *rates* under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production ~~begins~~ *begin* following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%

(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well ~~begins~~ *begin* following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production ~~begins~~ *begin* following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax ~~rate~~ *rates* under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production ~~begins~~ *begin* following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for ~~each~~ *a* barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is less than $30 ~~a barrel~~. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter as determined in subsection (6)(e), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is less than $38 ~~a barrel~~. If the price of oil is equal to or greater than $38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is equal to or greater than $38 ~~a barrel~~.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for *a barrel of* west Texas intermediate crude oil ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil and gas natural resource distribution account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) may not

exceed 0.3%. The base rate for the tax for oil and gas natural resource distribution account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil and gas natural resource distribution account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 3. Section 20-9-518, MCA, is amended to read:

"20-9-518. County school oil and natural gas impact fund. (1) The governing body of a county receiving an allocation under 20-9-310(4)(b) shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-310(4)(b) must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

(b) the average price for a barrel of ~~oil as reported in the Wall Street Journal for~~ west Texas intermediate crude oil during a calendar quarter is less than $65 ~~a barrel~~. The average price for each barrel must be computed by dividing the sum of the daily price for *a barrel of* west Texas intermediate crude oil ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.

(b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

(4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. The number of quality educators used for the calculation under this subsection in a district with territory in more than one county must be prorated based on the average number belonging of the district residing in school district territory located in each respective county. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.

(5) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2).

(6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(7) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund."

Approved February 18, 2015

CHAPTER NO. 30

[HB 91]

AN ACT STANDARDIZING THE PER DIEM PAYMENTS TO MEMBERS OF DEPARTMENT OF AGRICULTURE ADVISORY BOARDS AND COUNCILS; AMENDING SECTIONS 80-2-202, 80-8-108, 80-11-203, 80-11-305, 80-11-404, AND 90-9-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-2-202, MCA, is amended to read:

"80-2-202. Compensation of presiding officer and officers. (1) The appointed members of the board of hail insurance ~~must receive a per diem of $25~~ *are entitled to compensation as provided in 2-15-122* for each day they are engaged in the transaction of official business.

(2) All board members and employees must be allowed expenses as provided in 2-18-501 through 2-18-503.

(3) All other public officials specified in this chapter shall perform the duties relative to hail insurance without other compensation than that allowed by law."

Section 2. Section 80-8-108, MCA, is amended to read:

"80-8-108. Advisory council. (1) *(a)* The director of agriculture may appoint an advisory council to study and make recommendations on special pesticide problems in the state. The council consists of individuals representing, equally, *the* controlled industry, agriculture, health, and wildlife.

(b) Governmental personnel, university personnel not included, may not be represented on the council. Governmental personnel shall meet with the council in an advisory capacity when requested by the council.

(c) The council may not exceed 12 members.

(d) The director of agriculture shall establish the time period in which the council shall exist. The time period may not exceed 2 years.

(2) The department of agriculture shall provide the necessary administrative, secretarial, and ~~any~~ other essential ~~items~~ *support* to the council.

~~(2)~~*(3)* Each member of the council ~~must receive as compensation for services the sum of $25 a day~~ *is entitled to compensation as provided in 2-15-122* for each day ~~actually~~ spent in the performance of duties and must be reimbursed for travel expenses as provided ~~for~~ in 2-18-501 through 2-18-503.

~~(3)~~*(4)* The council may request that the department hold a public hearing to assist it in gathering factual data and information on the special problems assigned it."

Section 3. Section 80-11-203, MCA, is amended to read:

"80-11-203. Compensation — per diem. Members of the committee ~~shall receive no salary but shall be paid from the wheat and barley account in the state special revenue fund a per diem of $25~~ *may not receive a salary but are entitled to compensation as provided in 2-15-122* for each day they are engaged in the transaction of official business~~, together with their actual and necessary~~ *and must be reimbursed for* travel expenses, as provided ~~for~~ in 2-18-501 through 2-18-503, incurred while on official business."

Section 4. Section 80-11-305, MCA, is amended to read:

"80-11-305. Compensation — per diem. Each committee member is entitled to ~~$25 compensation~~ *compensation as provided in 2-15-122* for each day that the member is engaged in the transaction of official business~~, together with actual and necessary~~ *and must be reimbursed for* travel expenses~~,~~ as provided ~~for~~ in 2-18-501 through 2-18-503."

Section 5. Section 80-11-404, MCA, is amended to read:

"80-11-404. Compensation — per diem. Each committee member is entitled to ~~$25~~ compensation *as provided in 2-15-122* for each day that the member is engaged in the transaction of official business~~, together with actual and necessary~~ *and must be reimbursed for* travel expenses as provided ~~for~~ in 2-18-501 through 2-18-503."

Section 6. Section 90-9-201, MCA, is amended to read:

"90-9-201. Council organization — meetings. (1) The members of the council shall select a member as presiding officer. The council may establish other offices and select council members to fill these offices.

(2) The council shall meet quarterly and at other times as determined by the presiding officer or a majority of the council.

(3) Each committee member, except the director of the department and the director of the department of commerce, is entitled to:

(a) ~~$50~~ compensation *as provided in 2-15-122* for each day that the member is engaged in the transaction of official business, including travel to and from official business; and

(b) necessary travel expenses as provided ~~for~~ in 2-18-501 through 2-18-503."

Section 7. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 31

[HB 105]

AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO OPERATE AN ANALYTICAL LABORATORY; ALLOWING THE DEPARTMENT TO SET FEES FOR ANALYTICAL SERVICES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Analytical laboratory services — rulemaking authority — deposit of fees. (1) The department is authorized to provide analytical laboratory services for:

(a) programs it operates under this title;

(b) other state or federal agencies; and

(c) private parties.

(2) The department may enter into a contract or a memorandum of understanding for the space and equipment necessary for operation of the analytical laboratory.

(3) (a) The department may adopt rules establishing fees for testing services required under this title or provided to another state agency, a federal agency, or a private party.

(b) Money collected from the fees must be deposited in the appropriate related account in the state special revenue fund to the credit of the department to pay costs related to analytical laboratory services provided pursuant to this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 1, and the provisions of Title 80, chapter 1, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 32

[HB 108]

AN ACT LIMITING ADMINISTRATIVE EXPENSES FOR THE NOXIOUS WEED MANAGEMENT PROGRAM TO 12% OF THE TOTAL AMOUNT AWARDED THROUGH GRANTS AND CONTRACTS IN THE PREVIOUS FISCAL YEAR; AMENDING SECTION 80-7-814, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-814, MCA, is amended to read:

"80-7-814. Administration and expenditure of funds. (1) The provisions of this section constitute the noxious weed management program.

(2) (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust fund may not be committed or expended until the principal reaches $10 million.

(b) In the case of a noxious weed emergency, as provided in 80-7-815, a vote of three-fourths of the members of each house of the legislature may appropriate principal from the trust fund.

(c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be deposited in the noxious weed management special revenue fund and may be expended for noxious weed management projects before the principal of the noxious weed management trust reaches $10 million with a majority vote of each house of the legislature.

(d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the department. The department shall use any reverted funds for future grant awards, provided the noxious weed management trust fund principal exceeds $10 million as provided in subsection (2)(a).

(e) The department may not apply for or receive grant awards from the noxious weed management special revenue fund.

(3) The principal of the noxious weed management trust fund in excess of $10 million may be appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of $10 million may be used only to fund the noxious weed management program.

(4) The department may expend funds under this section through grants or contracts to communities, weed management districts, or other entities that it considers appropriate for noxious weed management projects. A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program using one of the following methods, whichever is less:

(a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or

(b) appropriating an amount of not less than $100,000 from any source.

(5) The department may expend funds without the restrictions specified in subsection (4) for the following:

(a) employment of a new and innovative noxious weed management project or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations, whether public or private. The expenditures must be on a cost-share basis with the organizations.

(b) cost-share noxious weed management programs with local weed management districts;

(c) special grants to local weed management districts to eradicate or contain significant noxious weeds newly introduced into the county. These grants may be issued without matching funds from the district.

(d) costs incurred by the department for administering the noxious weed management program as follows:

(i) In fiscal year 2014, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 16% of the total amount expended through grants and contracts made under subsection (4). No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.

(ii) In fiscal year 2015 and in each succeeding fiscal year, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 12% of the total ~~amount expended through grants and contracts made under subsection (4)~~ *amount of*

grants and contracts awarded from the noxious weed management special revenue fund under subsection (4) in the previous fiscal year. No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.

(e) administrative expenses incurred by the noxious weed management advisory council;

(f) a project recommended by the noxious weed management advisory council, if the department determines that the project will significantly contribute to the management of noxious weeds within the state; and

(g) grants to the agricultural experiment station and the cooperative extension service for crop weed management research, evaluation, and education.

(6) The agricultural experiment station and cooperative extension service shall submit annual reports on current projects and future plans to the noxious weed management advisory council.

(7) In making expenditures under subsections (3) through (5), the department shall give preference to weed management districts and community groups.

(8) If the noxious weed management trust fund is terminated by constitutional amendment, the money in the fund must be divided between all counties according to rules adopted by the department for that purpose."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 33

[HB 109]

AN ACT ALLOWING THE DEPARTMENT OF AGRICULTURE TO PROVIDE SAMPLING SERVICES IN CROP-RELATED DISPUTES; PROVIDING FOR FEES; AND GRANTING RULEMAKING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Plant sampling provided — fees — rulemaking authority. (1) In a dispute in which a plant sample would serve a useful purpose to clarify, quantify, or settle the dispute, either party may file with the department a request that the department provide sampling services.

(2) The department shall charge a fee that covers the costs of providing the sampling service. Costs associated with sampling must be paid by the person who requested the sampling unless:

(a) both parties agree to a different assignment of costs through a contractual or settlement agreement; or

(b) a different allocation has been ordered through mediation or a court order.

(3) The department shall adopt rules to implement this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 2, and the provisions of Title 80, chapter 2, apply to [section 1].

Approved February 18, 2015

CHAPTER NO. 34

[HB 110]

AN ACT CLARIFYING EDUCATIONAL REQUIREMENTS FOR THE BOARD OF FUNERAL SERVICE; AND AMENDING SECTION 37-19-302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-19-302, MCA, is amended to read:

"37-19-302. License required for practice of mortuary science — qualifications of applicants. (1) The practice of embalming or mortuary science by anyone who does not hold a mortician's license issued by the board is prohibited. A person 18 years of age or older wishing to practice mortuary science in this state must apply to the board on the form and in the manner prescribed by the board.

(2) To qualify for a mortician's license, a person must:

(a) be of good moral character;

(b) ~~present evidence of having satisfactorily completed 90 quarter credits or the equivalent of study at~~ *have graduated from* an accredited college or university *with an associate degree in mortuary science*;

(c) ~~in addition to the 90 quarter credits or the equivalent of study required in subsection (2)(b), have graduated with a diploma~~ *have earned in subjects prescribed by the board an additional 30 semester or 45 quarter credits* from an accredited college ~~of mortuary science~~ *or university that have not been applied toward the requirements in subsection (2)(b)*;

(d) pass an examination prescribed by the board; and

(e) serve a 1-year internship under the supervision of a licensed mortician in a licensed mortuary after passing the examination provided for in subsection (2)(d).

(3) A person who fails the examination required in subsection (2)(d) may retake it under conditions prescribed by rule of the board."

Approved February 18, 2015

CHAPTER NO. 35

[HB 112]

AN ACT EXTENDING THE SUNSET ON WIRELESS 9-1-1 FUNDING FOR LESS-POPULATED COUNTIES; AMENDING SECTION 10-4-313, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-4-313, MCA, is amended to read:

"10-4-313. Distribution of wireless enhanced 9-1-1 account by department. (1) Except as provided in subsection (2), the department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, ~~2015~~ *2019*:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, ~~2015~~ *2019*, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) (a) Except as provided in subsection (3) and after the distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:

(i) determine an amount equal to 50% of the total balance included in the account under 10-4-301(1)(c)(ii); and

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

(b) If the amount determined pursuant to subsection (2)(a)(i) is insufficient to reimburse all wireless providers in full in accordance with subsection (2)(a)(ii), the department shall proportionately, based on outstanding balances,

distribute the money to each wireless provider that has an unpaid balance carried over pursuant to subsection (1)(c).

(3) Funds may not be reallocated in accordance with subsection (2) if the county contains less than 1% of the state population.

(4) Any reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

(a) for each fiscal year through the fiscal year ending June 30, ~~2015~~ *2019*:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less than 1% of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (5)(a)(i) and (5)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, ~~2015~~ *2019*, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved February 18, 2015

CHAPTER NO. 36

[HB 122]

AN ACT REVISING PROVISIONS RELATED TO WITHHOLDING OF TAX FOR AGRICULTURAL LABOR; DEFINING "AGRICULTURAL LABOR"; AMENDING SECTION 15-30-2501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2501, MCA, is amended to read:

"15-30-2501. Definitions. When used in 15-30-2501 through 15-30-2509, the following definitions apply:

(1) *"Agricultural labor" means all services performed on a farm or ranch in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.*

(2) (a) "Employee" means:

(i) an individual who performs services for another individual or an organization having the right to control the employee as to the services to be performed and as to the manner of performance;

(ii) an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision of the United States or Montana or

any agency or instrumentality of the United States, the state of Montana, or a political subdivision of the United States or Montana;

(iii) an officer of a corporation;

(iv) all classes, grades, or types of employees including minors and aliens, superintendents, managers, and other supervisory personnel.

(b) The term does not include a sole proprietor performing services for the sole proprietorship.

~~(2)~~*(3)* "Employer" means:

(a) the person for whom an individual performs or performed any service, of whatever nature, as an employee of the person or, if the person for whom the individual performs or performed the services does not have control of the payment of wages for the services, the person having control of the payment of wages;

(b) any individual or organization that has or had in its employ one or more individuals performing services for it within this state, including:

(i) a state government and any of its political subdivisions or instrumentalities;

(ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability company, or domestic or foreign corporation;

(iii) a receiver, trustee, including a trustee in bankruptcy, or the trustee's successor; or

(iv) a legal representative of a deceased person; or

(c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance purposes, or under Title 39, chapter 71, for workers' compensation purposes.

~~(3)~~*(4)* "Lookback period" means the 12-month period ending the preceding June 30.

~~(4)~~*(5)* "Sole proprietor" means an individual doing business in a noncorporate form and includes the member of a single-member limited liability company that is a disregarded entity if the member is an individual.

~~(5)~~*(6)* (a) Except as provided in subsection ~~(5)(b)~~ *(6)(b)*, "wages" has the meaning provided in section 3401 of the Internal Revenue Code, 26 U.S.C. 3401.

(b) The term does not include:

(i) tips and gratuities exempt from taxation under 15-30-2110;

(ii) health insurance premiums attributed as income to an employee under federal law that are exempt from taxation under 15-30-2110;

(iii) unemployment compensation, including supplemental unemployment compensation treated as wages under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as provided in 15-30-2101; ~~or~~

(iv) any amount paid a sole proprietor*; or*

(v) any amount paid for agricultural labor."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax periods beginning after December 31, 2013.

Approved February 18, 2015

CHAPTER NO. 37

[HB 136]

AN ACT ALLOWING ELECTRONIC MEANS AS A METHOD OF ACCEPTING A VICTIM NOTIFICATION REQUEST AND OF PROVIDING NOTIFICATION TO VICTIMS; AMENDING SECTION 46-24-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-24-213, MCA, is amended to read:

"46-24-213. General requirements for information. (1) Unless specifically stated otherwise, the requirements of 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 to provide information to the victim may be satisfied by ~~either~~ written*, electronic,* or oral communication with the victim or the victim's designee.

(2) The person responsible for providing information required by 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 shall promptly inform the victim of significant changes in the information.

(3) The obligation to furnish information to a victim under 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 is conditioned upon the victim informing the appropriate agency in writing *or by electronic means* of the name, *mailing* address, *electronic address, if applicable,* and telephone number of the person to whom the information should be provided and of any change of name, *mailing or electronic* address, or telephone number."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 38

[HB 184]

AN ACT CLARIFYING THAT CERTIFIED PUBLIC ACCOUNTANTS ARE EXEMPT FROM THE REGULATORY REQUIREMENTS OF PRIVATE INVESTIGATORS, PRIVATE SECURITY AND FIRE ENTITIES, AND PROCESS SERVERS WHEN ENGAGED IN AN INVESTIGATION INCIDENT TO THE PRACTICE OF ACCOUNTANCY; AND AMENDING SECTION 37-60-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-60-105, MCA, is amended to read:

"37-60-105. Exemptions. (1) Except as provided in subsection (2), this chapter does not apply to:

(a) any one person employed singly and exclusively by any one employer in connection with the affairs of that employer only and when there exists an employer-employee relationship and the employee is unarmed, does not wear a uniform, and is guarding inside a structure that at the time is not open to the public;

(b) a person:

(i) employed singly and exclusively by a retail merchant;

(ii) performing at least some work for the retail merchant as a private security guard; and

(iii) who has received training as a private security guard from the employer or at the employer's direction;

(c) an officer or employee of the United States, of this state, or of a political subdivision of the United States or this state while the officer or employee is engaged in the performance of official duties;

(d) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(e) an attorney at law while performing duties as an attorney at law;

(f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices, governmental agencies, or other entities;

(g) a law student who is serving a legal internship;

(h) a collection agency or finance company licensed to do business under the laws of this state, or an employee of a collection agency or finance company licensed in this state while acting within the scope of employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or the debtor's property when the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent;

(i) special agents employed by railroad companies, provided that the railroad company notifies the board that its agents are operating in the state;

(j) insurers and insurance producers and insurance brokers licensed by the state while performing duties in connection with insurance transacted by them;

(k) individuals engaged in the collection and examination of physical material for forensic purposes;

(l) an insurance adjuster, as defined in 37-60-101;

(m) an internal investigator or auditor while making an investigation incidental to the business of the agency or company by which the investigator or auditor is singularly and regularly employed; ~~or~~

(n) a person who evaluates and advises management on personnel and human resource issues in the workplace~~.~~*; or*

(o) a certified public accountant with a license or permit to practice or a practice privilege under 37-50-314 or 37-50-325 to the extent that the person is engaged in an investigation relating to the practice of accounting.

(2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not exempt for the purposes of acting as registered process servers.

(b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process in a calendar year, as provided in 25-1-1101."

Approved February 18, 2015

CHAPTER NO. 39

[SB 4]

AN ACT AUTHORIZING APPOINTMENT OF SUBSTITUTE WORKERS' COMPENSATION JUDGES DURING A VACANCY; AND AMENDING SECTION 39-71-2901, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-2901, MCA, is amended to read:

"39-71-2901. Location of office — court powers — withdrawal — substitution — *vacancy.* (1) The principal office of the workers' compensation judge must be in the city of Helena.

(2) The workers' compensation court has power to:

(a) preserve and enforce order in its immediate presence;

(b) provide for the orderly conduct of proceedings before it and its officers;

(c) compel obedience to its judgments, orders, and process in the same manner and by the same procedures as in civil actions in district court;

(d) compel the attendance of persons to testify; and

(e) punish for contempt in the same manner and by the same procedures as in district court.

(3) The workers' compensation judge shall withdraw from all or part of any matter if the judge believes the circumstances make disqualification appropriate. In the case of a withdrawal, the workers' compensation judge shall designate and contract for a substitute workers' compensation judge to preside over the proceeding from the list provided for in subsection ~~(4)~~ *(7)*.

(4) If the office of the workers' compensation judge becomes vacant and before the vacancy is permanently filled pursuant to Title 3, chapter 1, part 10, the chief justice of the Montana supreme court shall appoint a substitute judge within 30 days of receipt of the notice of vacancy. The chief justice shall select a substitute judge from the list provided in subsection (7) or from the pool of retired state district court judges. The chief justice may appoint a substitute judge for a part of the vacancy or for the entire duration of the vacancy, and more than one substitute judge may be appointed to fill a vacancy.

(5) If a temporary vacancy occurs because the workers' compensation judge is suffering from a disability that temporarily precludes the judge from carrying out the duties of office for more than 60 days, a substitute judge must be appointed from the substitute judge list identified in subsection (7) by the current judge, if able, or by the chief justice of the supreme court. The substitute judge may not serve more than 90 days after appointment under this subsection. This subsection applies only if the workers' compensation judge is temporarily unable to carry out the duties of office due to a disability, and proceedings to permanently replace the judge under Title 3, chapter 1, part 10, may not be instituted.

(6) ~~The~~ *A* substitute judge must be compensated at the same hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies. ~~The~~ *A* substitute judge must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When ~~the~~ *a* substitute judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption of jurisdiction form in the court file.

~~(4)~~*(7)* The workers' compensation judge shall maintain a list of persons who are interested in serving as a substitute workers' compensation judge in the event of a recusal by the judge *or a vacancy* and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years."

Approved February 18, 2015

CHAPTER NO. 40

[SB 19]

AN ACT INCREASING THE PER CAPITA LIVESTOCK FEES ASSESSED BY LIVESTOCK AND CATTLE PROTECTIVE DISTRICTS FOR THE LIVESTOCK SPECIAL DEPUTY FUND; AMENDING SECTIONS 81-6-104, 81-6-204, AND 81-6-209, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-6-104, MCA, is amended to read:

"81-6-104. Fee — special fund. The county livestock protective committee may recommend to the board of county commissioners the imposition of a fee in an amount not to exceed ~~50 cents~~ *$1* per head on all cattle 9 months of age or older in the county on the regular assessment date of each year as provided in 15-24-903, and the board of county commissioners shall impose the fee. The fee must be collected and deposited by the county treasurer in a special fund to be known as the livestock special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 2. Section 81-6-204, MCA, is amended to read:

"81-6-204. Fee — deposit of proceeds — multiple-county district. The district cattle protective committee may recommend to the board of county commissioners the imposition of a fee in an amount not to exceed ~~50 cents~~ *$1* per head on all cattle 9 months of age or older in the district on the regular assessment date of each year as provided in 15-24-903, and the board of county commissioners shall impose the fee. The fee must be collected and deposited in the county treasury of one of the counties in the district, selected by the district cattle protective committee, in a special fund to be known as the livestock special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 3. Section 81-6-209, MCA, is amended to read:

"81-6-209. Fee — deposit of proceeds — single-county district. The district cattle protective committee may recommend to the board of county commissioners the imposition of a fee in an amount not to exceed ~~50 cents~~ *$1* per head on all cattle 9 months of age or older in the district on the regular assessment date of each year as provided in 15-24-903, and the board of county commissioners shall impose the fee. The fee must be collected and deposited in the county treasury in a special fund to be known as the livestock special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved February 18, 2015

CHAPTER NO. 41

[SB 27]

AN ACT REVISING INTERIM COMMITTEE DUTIES RELATED TO ADMINISTRATIVE RULE REVIEW, DRAFT LEGISLATION REVIEW, PROGRAM EVALUATION, AND MONITORING OF CERTAIN AGENCIES; AMENDING SECTIONS 5-5-227 AND 5-5-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-227, MCA, is amended to read:

"5-5-227. Revenue and transportation interim committee — powers and duties — revenue estimating and use of estimates. (1) The revenue and transportation interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and the department of transportation, ~~and~~ *for* the entities attached to the departments for administrative purposes*, and for the state tax appeal board established in 2-15-1015*.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state."

Section 2. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for administrative purposes:

(a) department of administration, except:

(i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019;

(ii) the state tax appeal board established in 2-15-1015;

~~(ii)~~*(iii)* the office of state public defender; and

~~(iii)~~*(iv)* the division of banking and financial institutions;

(b) department of military affairs; and

(c) office of the secretary of state.

(2) The committee shall:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study

and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles; and

(d) publish, for legislators' use, information on the public employee retirement systems that the committee considers will be valuable to legislators when considering retirement legislation.

(3) The committee may:

(a) specify the date by which retirement board proposals affecting a retirement system must be submitted to the committee for the review pursuant to subsection (1); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 42

[SB 35]

AN ACT ELIMINATING THE CERTIFICATE OF EXISTENCE REQUIREMENTS FOR OUT-OF-STATE BUSINESSES; REQUIRING CERTAIN STATEMENTS FROM OUT-OF-STATE BUSINESSES IN LIEU OF A CERTIFICATE OF EXISTENCE; AMENDING SECTIONS 35-1-217, 35-1-311, 35-1-1028, 35-2-119, 35-2-307, 35-2-822, 35-8-108, 35-8-1003, AND 35-12-1302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 35-1-217, MCA, is amended to read:

"35-1-217. Filing requirements. All of the following requirements must be met before a document may be filed under this section by the secretary of state:

(1) A document that is required or permitted by this chapter to be filed in the office of the secretary of state must satisfy the requirements of this section and of any other section that adds to or varies these requirements.

(2) The document must contain the information required by this chapter. It may contain other information as well.

(3) The document must be typewritten or printed.

(4) The document must be in the English language. A corporate name need not be in English if it is written in English letters or Arabic or Roman numerals. ~~The certificate of existence required of foreign corporations need not be in English if it is accompanied by a reasonably authenticated English translation.~~

(5) (a) Except as provided in subsection (5)(b), the document must be executed:

(i) by the presiding officer of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(ii) if directors have not been selected or the corporation has not been formed, by an incorporator; or

(iii) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(b) A corporation's annual report may be executed as provided in subsection (5)(a) or by the corporation's authorized agent.

(6) The person executing the document shall sign the document and state beneath or opposite the person's signature the person's name and the capacity in which the person signs. The document may but need not contain the corporate seal, an attestation by the secretary or an assistant secretary, or an acknowledgment, verification, or proof.

(7) The document must be in or on the prescribed form if the secretary of state has prescribed a mandatory form for the document under rules adopted pursuant to 35-1-1315.

(8) The document must be delivered to the office of the secretary of state for filing and must be accompanied by:

(a) the correct filing fee; and

(b) any franchise tax, license fee, or penalty required by this chapter, rules promulgated under this chapter, or other law."

Section 2. Section 35-1-311, MCA, is amended to read:

"35-1-311. Registered name of foreign corporation. (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by 35-1-1031, if the name is distinguishable in the records of the secretary of state from the corporate names that are not available under 35-1-308(2)(c).

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by 35-1-1031, by delivering to the secretary of state, for filing, an application:

(a) setting forth its corporate name, or its corporate name with any addition required by 35-1-1031, the state or country, the date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) ~~accompanied by a certificate of existence, or a similar document, from the state or country of incorporation~~ *a statement that the foreign corporation has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign corporation exists in that jurisdiction*.

(3) The name is registered for the applicant's exclusive use on the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state, for filing, a renewal application that complies with the requirements of subsection (2). The renewal application must be delivered between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may continue to qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation later authorized to transact business in this state. The registration terminates when the foreign corporation is incorporated as a domestic corporation or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name."

Section 3. Section 35-1-1028, MCA, is amended to read:

"35-1-1028. Application for certificate of authority. ~~(1)~~ A foreign corporation may apply for a certificate of authority to transact business in this

state by delivering an application to the secretary of state for filing. The application must set forth:

~~(a)~~*(1)* the name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of 35-1-1031;

~~(b)~~*(2)* the name of the state or country under whose law it is incorporated;

~~(c)~~*(3)* its date of incorporation and period of duration;

~~(d)~~*(4)* the business mailing address of its principal office;

~~(e)~~*(5)* the information required by 35-7-105(1);

~~(f)~~*(6)* the names and usual business addresses of its current directors and officers; ~~and~~

~~(g)~~*(7)* the purpose or purposes of the corporation that it proposes to pursue in the transaction of business in this state*; and*

(8) a statement that the foreign corporation has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign corporation exists in that jurisdiction.

~~(2) The foreign corporation shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated.~~"

Section 4. Section 35-2-119, MCA, is amended to read:

"35-2-119. Filing requirements. All of the following requirements must be met before a document may be filed under this section by the secretary of state:

(1) A document that is required or permitted by this chapter to be filed in the office of the secretary of state must satisfy the requirements of this section and of any other section that adds to or varies these requirements.

(2) The document must contain the information required by this chapter. The document may contain other information as well.

(3) The document must be typewritten or printed unless an electronic form is allowed by the secretary of state.

(4) The document must be in the English language. However, a corporate name does not need to be in English if it is written in English letters or Arabic or Roman numerals. ~~The certificate of existence required of foreign corporations does not need to be in English if it is accompanied by a reasonably authenticated English translation.~~

(5) (a) Except as provided in subsection (5)(b), the document must be executed:

(i) by the presiding officer of the corporation's board of directors, its president, or another of its officers;

(ii) if directors have not been selected or the corporation has not been formed, by an incorporator; or

(iii) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(b) (i) A corporation's annual report may be executed as provided in subsection (5)(a) or by the corporation's authorized agent.

(ii) For the purposes of this subsection (5)(b), "authorized agent" means any individual granted permission by an entity to execute a document on behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized agent.

(6) The person executing the document shall sign the document and state beneath or opposite the signature the person's name and the capacity in which the person signs. The document may but does not need to contain the corporate seal, an attestation by the secretary or an assistant secretary, or an acknowledgment, verification, or proof.

(7) The document must be in or on the prescribed form if the secretary of state has prescribed a mandatory form for a document under 35-2-1108.

(8) The document must be delivered to the office of the secretary of state for filing and must be accompanied by:

(a) the correct filing fee; and

(b) any franchise tax, license fee, or penalty required by this chapter, rules promulgated under this chapter, or other law."

Section 5. Section 35-2-307, MCA, is amended to read:

"35-2-307. Registered name of foreign corporation. (1) A foreign corporation may register its corporate name, or its corporate name with any change required by 35-2-826, if the name is distinguishable in the records of the secretary of state from:

(a) the corporate name of a nonprofit or business corporation incorporated or authorized to do business in this state; and

(b) a corporate name reserved under Title 35, chapter 1, or 35-2-306 or registered under this section.

(2) A foreign corporation shall register its corporate name, or its corporate name with any change required by 35-2-826, by delivering to the secretary of state, for filing, an application *setting forth*:

(a) ~~setting forth~~ its corporate name or its corporate name with any change required by 35-2-826, the state or country, the date of its incorporation, and a brief description of the nature of the activities in which it is engaged; and

(b) ~~accompanied by a certificate of existence, or a similar document, from the state or country of incorporation~~ *a statement that the foreign corporation has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign corporation exists in that jurisdiction*.

(3) The name is registered for the applicant's exclusive use on the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state, for filing, a renewal application that complies with the requirements of subsection (2). The renewal application must be delivered between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may continue to qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation later incorporated under this chapter or by another foreign corporation later authorized to transact business in this state. The registration terminates when the foreign corporation is incorporated as a domestic corporation or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name."

Section 6. Section 35-2-822, MCA, is amended to read:

"35-2-822. Application for certificate of authority. ~~(1)~~ A foreign corporation may apply for a certificate of authority to transact business in this

state by delivering an application to the secretary of state. The application must set forth:

~~(a)~~*(1)* the name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of 35-2-826;

~~(b)~~*(2)* the name of the state or country under whose law it is incorporated;

~~(c)~~*(3)* the date of incorporation and period of duration;

~~(d)~~*(4)* the business mailing address of its principal office;

~~(e)~~*(5)* the information required by 35-7-105(1);

~~(f)~~*(6)* the names and business mailing addresses of its current directors and officers;

~~(g)~~*(7)* whether the foreign corporation has members;

~~(h)~~*(8)* whether the *foreign* corporation, if it had been incorporated in this state, would be a public benefit corporation, mutual benefit corporation, or religious corporation; ~~and~~

~~(i)~~*(9)* the purpose or purposes of the *foreign* corporation that it proposes to pursue in the transaction of business in this state*; and*

(10) a statement that the foreign corporation has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign corporation exists in that jurisdiction.

~~(2) The foreign corporation shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated.~~"

Section 7. Section 35-8-108, MCA, is amended to read:

"35-8-108. Registered name of foreign limited liability company — registration renewal. (1) A foreign limited liability company may register its name or its name with any addition required by 35-8-103 if the name is distinguishable from names that are not available under 35-8-103(2).

(2) A foreign limited liability company shall register its name or its name with any addition required by 35-8-103 by delivering to the secretary of state for filing an application *setting forth*:

~~(a) setting forth:~~

~~(i)~~*(a)* its name or its name with any addition required by 35-8-103;

~~(ii)~~*(b)* the state or country where it was organized;

~~(iii)~~*(c)* the date of its organization;

~~(iv)~~*(d)* a brief description of the nature of its business; ~~and~~

(e) a statement that the foreign limited liability company has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign limited liability company exists in that jurisdiction; and

~~(v)~~*(f)* if applicable, a statement that it has one or more series of members and whether the debts or liabilities of a series of members are enforceable against the assets of that series of members only and not against the assets of the company generally or another series of members~~;~~

~~(b) accompanied by a certificate of existence or a similar document from the state or country where it was organized~~.

(3) The name, if accepted by the secretary of state, is registered for the applicant's exclusive use as of the date the application is filed with the secretary of state.

(4) A foreign limited liability company may annually renew its registration for successive years by delivering to the secretary of state a renewal application that complies with the requirements of subsection (2). The renewal application must be received by the secretary of state for filing between October 1 and December 31 of the year preceding the year for which a renewal is sought. The renewal is effective until December 31 of the following year.

(5) A foreign limited liability company has the right to use its registered name until the registration of the name is canceled as a result of it consenting to the use of the registered name by another business entity authorized to do business in this state or until the foreign limited liability company applies for and receives a certificate of authority to transact business in this state or it organizes as a domestic limited liability company in this state. A foreign limited liability company receiving a certificate of authority to transact business in this state or that organizes as a domestic limited liability company may use the canceled registered name as its business name."

Section 8. Section 35-8-1003, MCA, is amended to read:

"35-8-1003. Application for certificate of authority. ~~(1)~~ A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth:

~~(a)~~*(1)* the name of the foreign limited liability company or, if its name is unavailable for use in this state, a name that satisfies the requirements of 35-8-1009;

~~(b)~~*(2)* the name of the jurisdiction under whose law it is organized;

~~(c)~~*(3)* its date of organization and period of duration;

~~(d)~~*(4)* the business mailing address of its principal office, wherever located;

~~(e)~~*(5)* the information required by 35-7-105(1); ~~and~~

~~(f)~~*(6)* the names and business mailing addresses of its current managers, if different from its members*; and*

(7) a statement that the foreign limited liability company has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign limited liability company exists in that jurisdiction.

~~(2) A foreign limited liability company shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the jurisdiction under whose law the foreign limited liability company is organized.~~"

Section 9. Section 35-12-1302, MCA, is amended to read:

"35-12-1302. Application for certificate of authority. ~~(1)~~ Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state the application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

~~(a)~~*(1)* the name of the foreign limited partnership and, if the name does not comply with 35-12-505, an alternate name adopted pursuant to 35-12-1312(1);

~~(b)~~*(2)* the name of the state or other jurisdiction under whose law the foreign limited partnership is organized and the date of the foreign limited partnership's formation;

~~(c)~~*(3)* the business mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to

maintain an office in that jurisdiction, the business mailing address of the required office;

~~(d)~~*(4)* the information required in 35-7-105(1);

~~(e)~~*(5)* the name and business mailing address of each of the foreign limited partnership's general partners; ~~and~~

~~(f)~~*(6)* whether the foreign limited partnership is a foreign limited liability limited partnership*; and*

(7) a statement that the foreign limited partnership has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign limited partnership exists in that jurisdiction.

~~(2) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import dated within 6 months of its submission signed by the secretary of state or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized.~~"

Section 10. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 43

[SB 36]

AN ACT REQUIRING A FOREIGN LIMITED PARTNERSHIP TO AMEND ITS CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS UNDER CERTAIN CIRCUMSTANCES; REQUIRING CERTAIN INFORMATION TO AMEND A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Amendment of certificate of authority — requirements. (1) A foreign limited partnership may amend its certificate of authority to transact business by delivering to the secretary of state for filing an amendment stating:

(a) the name of the foreign limited partnership;

(b) the date of filing of the foreign limited partnership's initial certificate; and

(c) the changes the amendment makes to the certificate of authority to transact business as most recently amended.

(2) A foreign limited partnership shall promptly deliver to the secretary of state for filing an amendment to a certificate of authority to transact business to reflect:

(a) the admission of a new general partner;

(b) the dissociation of a general partner; or

(c) the revision of any other information at any time for a proper purpose as determined by the foreign limited partnership.

(3) A general partner that knows that any information in an application for registration as a foreign limited partnership was false when filed or that any information in a certificate of authority to transact business has become false due to changed circumstances shall promptly:

(a) cause the certificate to be amended; or

(b) if appropriate, deliver to the secretary of state for filing a statement of change pursuant to 35-7-110 or a statement of correction pursuant to 35-12-616.

(4) Subject to 35-12-614(3), an amendment is effective when filed by the secretary of state.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 35, chapter 12, part 13, and the provisions of Title 35, chapter 12, part 13, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 44

[SB 46]

AN ACT ALLOWING FISHING, HUNTING, AND TRAPPING LICENSES TO BE SIGNED ELECTRONICALLY; AMENDING SECTION 87-2-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-107, MCA, is amended to read:

"87-2-107. License form. The form of the license must be determined and the license blanks prepared by the department and furnished by it to the officers and persons authorized to issue the license. Licenses must be issued in the name of the department. Each license issued must be signed by the licensee in ink or indelible pencil on the face of the license *or signed electronically*."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2015

CHAPTER NO. 45

[SB 70]

AN ACT REVISING THE QUALIFICATIONS FOR DEPARTMENT OF LABOR AND INDUSTRY CRANE INSPECTORS; AMENDING SECTION 50-76-110, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-76-110, MCA, is amended to read:

"50-76-110. Crane inspector — qualifications — inspections. (1) The department shall employ at least one crane inspector. A crane inspector must have a minimum of 3 years of experience ~~operating cranes and must have been licensed for at least 1 year as a first-class crane and hoist engineer~~ *as a licensed third-class crane and hoist engineer*.

(2) The department may adopt by rule applicable operating and safety standards established by the American national standards institute.

(3) A crane inspector may require that a crane, hoist, or other equipment subject to this chapter that is not being operated in compliance with an operating or safety standard adopted by rule pursuant to subsection (2) be declared to be out of service and that the crane, hoist, or other equipment not be operated until the noncompliance is cured."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved February 18, 2015

CHAPTER NO. 46

[SB 71]

AN ACT REVISING THE INSPECTION FEE FOR TWO OR MORE BOILERS; AMENDING SECTION 50-74-219, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-74-219, MCA, is amended to read:

"50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, *the department shall charge and collect* a fee ~~must be charged and collected by the department~~ prior to issuance of a boiler operating certificate in accordance with the following schedule:

(a) operating certificate, $31;

(b) internal inspection, $75;

(c) external inspection:

(i) hot water heating and supply, $35;

(ii) steam heating, $50; and

(iii) power boiler, $70; and

(d) special inspection, $50 an hour plus expenses.

~~(2) If two or more boilers in the same room are inspected at the same time, the total fee imposed for all boilers must be the fee for inspection of one boiler, and the fee is the amount for the type of boiler with the highest fee.~~

~~(3)~~*(2)* Fees collected under this section must be deposited in the state special revenue fund in an account credited to the department for administration of the boiler inspection program."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved February 18, 2015

CHAPTER NO. 47

[SB 78]

AN ACT ELIMINATING THE MINT COMMITTEE AND LAWS RELATED TO THE MINT COMMITTEE; REPEALING SECTIONS 2-15-3006, 80-11-401, 80-11-402, 80-11-403, 80-11-404, 80-11-405, 80-11-412, 80-11-413, 80-11-414, 80-11-415, 80-11-416, 80-11-417, 80-11-418, AND 80-11-419, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-3006. Montana mint committee — composition — allocation.

80-11-401. Findings — purpose.

80-11-402. Definitions.

80-11-403. Powers of the committee.

80-11-404. Compensation — per diem.

80-11-405. Election of presiding officer — time of meetings.

80-11-412. Assessment on mint oil — exception.

80-11-413. Buyer's delivery of invoice to grower — form.

80-11-414. Payment of assessment — sworn statement.
80-11-415. Mint account — sources — use — expenditures.
80-11-416. Records required.
80-11-417. Mint oil purchaser license — application — fee — exception.
80-11-418. Penalty for nonpayment of assessment.
80-11-419. Penalty.

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved February 18, 2015

CHAPTER NO. 48

[HB 26]

AN ACT AMENDING THE AMOUNT OF UNPAID, UNSECURED OBLIGATIONS AND THE AMOUNT OF ASSETS THAT THE PARTIES TO A SUMMARY DISSOLUTION PROCEEDING MAY HAVE; AND AMENDING SECTION 40-4-130, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-130, MCA, is amended to read:

"40-4-130. Summary dissolution — conditions necessary at commencement of proceedings. A marriage may be dissolved by the summary dissolution procedure specified in 40-4-130 through 40-4-136 if all of the following conditions exist on the date the proceeding is commenced:

(1) Each party has met the requirements of 40-4-104 with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irretrievable breakdown of the marriage, and both parties agree that the marriage should be dissolved.

(3) The wife is not pregnant and:

(a) there are no children from the relationship born before or during the marriage or adopted by the parties during the marriage; or

(b) the parties have executed an agreed-upon parenting plan and the child support and medical support have been determined by judicial or administrative order for all children from the relationship born before or during the marriage or adopted by the parties during the marriage.

(4) (a) Except as provided in subsection (4)(b), neither party has any interest in real property.

(b) The limitation of subsection (4)(a) does not apply to the lease of a residence occupied by either party if the lease does not include an option to purchase and if it terminates within 1 year from the date of the filing of the petition.

(5) There are no unpaid, unsecured obligations in excess of ~~$8,000~~ *$20,000* incurred by either or both of the parties after the date of their marriage.

(6) The total fair market value of assets, excluding secured obligations, is less than ~~$25,000~~ *$50,000*.

(7) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(8) The parties waive any right to maintenance.

(9) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal the terms of the dissolution and their rights to move for a new trial on the dissolution.

(10) The parties have read and state that they understand the contents of the summary dissolution brochure provided for in 40-4-136.

(11) The parties desire that the court dissolve the marriage."

Approved February 25, 2015

CHAPTER NO. 49

[HB 84]

AN ACT GENERALLY REVISING ELECTION LAWS; CONSOLIDATING AND STANDARDIZING CERTAIN DATES AND DEADLINES FOR ELECTION ADMINISTRATION; PROVIDING FOR EXCEPTIONS TO STANDARD PROVISIONS IF SPECIFICALLY AUTHORIZED BY LAW; REQUIRING THAT SPECIAL PURPOSE DISTRICT ELECTIONS, OTHER THAN FUNDING ELECTIONS, BE CONDUCTED ON THE SAME DAY AS SCHOOL TRUSTEE ELECTIONS; PROVIDING THAT COUNTY ELECTION ADMINISTRATORS CONDUCT ALL SPECIAL PURPOSE DISTRICT AND COMMUNITY COLLEGE DISTRICT ELECTIONS; APPLYING LATE VOTER REGISTRATION PROVISIONS TO SCHOOL ELECTIONS CONDUCTED BY SCHOOL DISTRICT CLERKS; REVISING AND CLARIFYING CERTAIN TERMS OF OFFICE PROVISIONS FOR CERTAIN ELECTED OFFICIALS; ELIMINATING ANY REQUIREMENTS FOR CANDIDATE NOMINATION PETITIONS SIGNED BY A CERTAIN NUMBER OR ELECTORS AS A PREREQUISITE TO CANDIDACY; REVISING INFORMATION TO BE INCLUDED IN A CALL FOR CERTAIN ELECTIONS; REVISING CERTAIN PROVISIONS REGARDING ELECTIONS CONDUCTED BY MAIL; REVISING CERTAIN PROVISIONS CONCERNING PUBLIC NOTICE OF ELECTIONS; REVISING DEFINITIONS; ELIMINATING REDUNDANT AND OUTDATED PROVISIONS; AMENDING SECTIONS 2-16-622, 3-1-1013, 3-6-201, 3-10-101, 3-11-101, 7-1-201, 7-1-2121, 7-1-4130, 7-2-2215, 7-2-2604, 7-2-2705, 7-2-2709, 7-2-2804, 7-2-4104, 7-2-4106, 7-2-4314, 7-2-4601, 7-2-4602, 7-2-4606, 7-2-4733, 7-2-4902, 7-2-4904, 7-3-103, 7-3-121, 7-3-122, 7-3-125, 7-3-149, 7-3-154, 7-3-155, 7-3-160, 7-3-173, 7-3-174, 7-3-175, 7-3-176, 7-3-178, 7-3-186, 7-3-187, 7-3-192, 7-3-1204, 7-3-1205, 7-3-1206, 7-3-1208, 7-3-1209, 7-3-1216, 7-3-1218, 7-3-1219, 7-3-1229, 7-3-1231, 7-3-1254, 7-3-1271, 7-3-4208, 7-3-4210, 7-3-4212, 7-3-4214, 7-3-4222, 7-3-4223, 7-3-4305, 7-3-4307, 7-3-4309, 7-3-4310, 7-3-4311, 7-3-4316, 7-3-4319, 7-3-4322, 7-3-4462, 7-5-131, 7-5-132, 7-5-4321, 7-5-4322, 7-6-1501, 7-6-1502, 7-6-1504, 7-6-1505, 7-6-1506, 7-6-1508, 7-6-1509, 7-6-1532, 7-6-1533, 7-6-1535, 7-6-1536, 7-6-1541, 7-6-1542, 7-6-1543, 7-6-1544, 7-6-1546, 7-6-1547, 7-6-1548, 7-6-1551, 7-7-2223, 7-7-2227, 7-7-2229, 7-7-2237, 7-7-2404, 7-7-2405, 7-7-2406, 7-7-4226, 7-7-4227, 7-7-4235, 7-7-4426, 7-8-4201, 7-10-101, 7-10-102, 7-10-104, 7-10-110, 7-11-1011, 7-11-1012, 7-12-4243, 7-13-2201, 7-13-2204, 7-13-2208, 7-13-2210, 7-13-2211, 7-13-2214, 7-13-2217, 7-13-2222, 7-13-2225, 7-13-2231, 7-13-2234, 7-13-2241, 7-13-2258, 7-13-2261, 7-13-2262, 7-13-2271, 7-13-2272, 7-13-2273, 7-13-2276, 7-13-2321, 7-13-2323, 7-13-2324, 7-13-2328, 7-13-2333, 7-13-2341, 7-13-2342, 7-13-2352, 7-13-4204, 7-13-4511, 7-13-4512, 7-13-4535, 7-14-210, 7-14-211, 7-14-212, 7-14-214, 7-14-1106, 7-14-1134, 7-14-1633, 7-14-2507, 7-14-4512, 7-14-4642, 7-16-2102, 7-16-2109, 7-33-2106, 7-34-2110, 7-34-2112, 7-34-2117, 13-1-101, 13-1-104, 13-1-106, 13-1-107,

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Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. (1) The purpose of [sections 1 through 5] is to consolidate, simplify, and standardize, to the extent feasible, dates and deadlines for special purpose district elections and to provide more consistency for election administrators and voters.

(2) Nothing in [sections 1 through 5] may be interpreted to require the secretary of state to oversee special purpose district elections.

Section 2. Deadlines for candidate filing, write-in candidacy, and withdrawal — election cancellation — election by acclamation. (1) Consistent with the candidate filing deadline in 13-10-201(7) for primary elections, and except as provided in subsection (3) for a write-in candidate, the candidate filing deadline for election to a special purpose district office is no sooner than 145 days and no later than 85 days before the election.

(2) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(3) Consistent with the deadline for write-in candidates under 13-10-211 for primary elections, a declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the 10th day before the date on which the ballot must be available for absentee or mail ballot voting under [section 3], as applicable.

(4) If by the write-in candidate deadline in subsection (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing body in writing of the cancellation. However, the governing body may by resolution require that the election be held.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body shall declare the candidate elected to the position by acclamation.

(b) Except as otherwise provided by law:

(i) if an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body shall fill the position by appointment;

(ii) an appointed member shall serve the same term as if the member were elected.

Section 3. Deadlines for absentee and mail ballots. (1) Pursuant to 13-13-205, ballots for a special purpose district election must be available for absentee voting at least 20 days before election day if the election is not conducted by mail.

(2) Pursuant to 13-19-207, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day if the election is conducted by mail.

Section 4. Dates for special purpose district elections — call for election. (1) Except as provided in subsection (2), the following elections for a special purpose district must be held on the same day as the regular school election day established in 20-20-105(1), which is the first Tuesday after the first Monday in May:

(a) an election to create, alter the boundaries of, continue, or dissolve a special purpose district; and

(b) an election to fill a special purpose district office.

(2) (a) A special purpose district election that includes a question affecting district funding, such as fee assessments, bonds, or the sale or lease of property, may be held on the day specified in subsection (1) or scheduled as a special election.

(b) A conservation district election must be held on a primary or general election day.

(3) If specifically authorized by law, a special purpose district election may be held at the district's annual meeting.

(4) A special purpose district election may not be held earlier than 85 days after the date of the order or resolution calling for the election.

(5) Pursuant to 13-19-201, the governing body authorized by law to call an election shall specify in the order or resolution calling for the election whether the governing body is requesting that the election be conducted by mail.

Section 5. Conduct of elections. (1) A special purpose district election must be conducted by a county election administrator.

(2) If a special purpose district lies in more than one county, the county election administrator in the county with the largest percentage of qualified electors in the district shall conduct the election.

(3) Notice of the election must be provided as required in 13-1-108.

(4) Subject to 13-19-104, a special purpose district election may be conducted by mail.

(5) Unless otherwise specified by law, conduct of the election, voter registration, and how votes must be cast, counted, and canvassed for a special purpose election must be conducted in accordance with the applicable provisions of this title.

Section 6. Purpose — definition. (1) The purpose of [sections 6 through 10] is to consolidate, simplify, and standardize, to the extent feasible, dates and deadlines for local government elections and to provide more consistency for election administrators and voters.

(2) For the purposes of [sections 6 through 10], "local government" means a local government entity, other than a special purpose district or a school district, that is conducting an election that may be held on the same day as a primary election but is not a primary election, such as an election on question or an election for officers that does not involve a primary.

Section 7. Election deadlines for candidate filing, write-in candidacy, and withdrawal — election cancellation — election by acclamation. (1) Consistent with the candidate filing deadline in 13-10-201(7) for primary elections, and except as provided in subsection (2) for a write-in candidate, the candidate filing deadline for election to a local government office is no sooner than 145 days and no later than 85 days before the election.

(2) Consistent with the deadline for write-in candidates under 13-10-211 for primary elections, a declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the 10th day before the date on which the ballot must be available for absentee or mail ballot voting under [section 8], as applicable.

(3) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(4) Except as provided in subsection (5)(b) and unless otherwise specifically provided by law, if the number of candidates filing for election is equal to or less than the number of positions to be filled, the election administrator shall notify the governing body in writing that the election is not necessary and the governing body may by resolution cancel the election.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body shall declare the candidate elected to the position by acclamation.

(b) If an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body shall fill the position by appointment. The term of an appointed member must be the same as if the member were elected.

Section 8. Deadline for absentee ballots and mail ballots. (1) Pursuant to 13-13-205, ballots for a local government election must be available for absentee voting at least 25 days prior to a polling place election.

(2) Pursuant to 13-19-207, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day for an election conducted by mail.

Section 9. Date of local government elections — call for election. (1) A local government election must be held on the same day as the primary election day established in 13-1-107 or the general election day established in 13-1-104, except that an election concerning funding may be called as a special election.

(2) A local government election may not be held sooner than 85 days after the date of the order or resolution calling for the election.

(3) Pursuant to 13-19-201, the governing body authorized by law to call an election shall specify in the order or resolution calling for the election whether the governing body is requesting that the election be conducted by mail.

Section 10. Conduct of elections. (1) Notice of a local government election must be provided as required in 13-1-108.

(2) Subject to 13-19-104, a local government election may be conducted by mail.

(3) Unless otherwise specified by law, conduct of the election, voter registration, and how votes must be cast, counted, and canvassed must be done in accordance with the applicable provisions of this title.

Section 11. Section 2-16-622, MCA, is amended to read:

"2-16-622. Resignation of officer — proclamation of election. (1) If the officer named in the petition for recall submits a resignation in writing, it must be accepted and become effective ~~the day~~ *72 hours after* it is offered. The vacancy created by the resignation must be filled as provided by law. However, the officer named in the petition for recall may not be appointed to fill the vacancy. If the officer named in the petition for recall refuses to resign or does not resign within 5 days after the petition is filed, *a election must be held. If the recall petition was filed between 145 days and 90 days before a general election, the recall election must held at the same time as the general election. If the recall petition was filed more than 145 days or less than 90 days before a general election,* a special election must be called ~~unless the filing is within 90 days of a general election, in which case the question must be placed on a separate ballot at the same time as the general election~~.

(2) The call of a special election must be made by the governor in the case of a state or state-district officer or by the board or officer empowered by law to call special elections for a political subdivision in the case of any officer of a political subdivision of the state."

Section 12. Section 3-1-1013, MCA, is amended to read:

"3-1-1013. Senate confirmation — exception — nomination in the interim — appointment contingent on vacancy. (1) (a) Except as provided in subsection (2):

(i) each appointment must be confirmed by the senate; and

(ii) an appointment made while the senate is not in session is effective until the end of the next special or regular legislative session.

(b) If the appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the office is vacant and another selection of nominees and appointment must be made.

(2) The following appointments are not subject to senate confirmation, and there must be an election for the office at the general election immediately preceding the scheduled expiration of the term or following the appointment, as applicable:

(a) an appointment made while the senate is not in session if the term to which the appointee is appointed expires prior to the next legislative session, regardless of the time of the appointment in relation to the candidate filing deadlines for the office; and

(b) an appointment made while the senate is not in session if a general election will be held prior to the next legislative session and the appointment is made prior to the candidate filing deadline for primary elections ~~held pursuant to 13-1-107~~ *under 13-10-201(7)*, in which case the position is subject to election at the next primary and general elections.

(3) A nomination is not effective unless a vacancy in office occurs."

Section 13. Section 3-6-201, MCA, is amended to read:

"3-6-201. Number of judges — election — term of office — chief judge — duties of chief judge — assistant judge. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge who is not a part-time assistant judge appointed under subsection (6) must be elected at the general election, as provided in 13-1-104~~(2)~~*(3)*. The judge's term commences on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until a successor is elected and qualified.

(3) Except as provided in subsection (2), all elections of municipal court judges are governed by the laws applicable to the election of district court judges.

(4) If there is more than one municipal court judge, the judges shall adopt a procedure by which they either select a chief municipal court judge at the beginning of each calendar year or by which the position of chief municipal court judge rotates among the judges in order of seniority at the beginning of each calendar year, with the most senior judge serving during the first year of the rotation.

(5) The chief municipal court judge shall provide for the efficient management of the court, in cooperation with the other judge or judges, if any, and shall:

(a) maintain a central docket of the court's cases;

(b) provide for the distribution of cases from the central docket among the judges, if there is more than one judge, in order to equalize the work of the judges;

(c) request the jurors needed for cases set for jury trial;

(d) if there is more than one judge, temporarily reassign or substitute judges among the departments as necessary to carry out the business of the court; and

(e) supervise and control the court's personnel and the administration of the court.

(6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore under 3-6-204, to serve during the municipal court judge's term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge."

Section 14. Section 3-10-101, MCA, is amended to read:

"3-10-101. Number and location of justices' courts — authorization to combine with city court — justice's court of record. (1) There must be at least one justice's court in each county of the state, which must be located at the county seat. The board of county commissioners shall designate the number of justices in each justice's court.

(2) The board of county commissioners of each county of the state may establish:

(a) one additional justice's court located anywhere in the county; and

(b) one additional justice's court located in each city having a population of over 5,000, as provided in subsection (3).

(3) A city having a population of over 5,000 may, by resolution, request the board of county commissioners to constitute a justice's court in the city. A justice's court must be established in the city if the board of county commissioners approves the request by resolution.

(4) A justice of the peace of a court established pursuant to subsection (3) may act as the city judge upon passage of a city ordinance authorizing the action and upon approval of the ordinance by resolution of the board of county commissioners. If the ordinance and resolution are passed, the city and the

county shall enter into an agreement for proportionate payment of the justice's salary, as established under 3-10-207 and 3-11-202, and for proportionate reimbursement for the use of facilities.

(5) A county may establish the justice's court as a court of record. If the justice's court is established as a court of record, it must be known as a "justice's court of record" and, in addition to the provisions of this chapter, is also subject to the provisions of 3-10-115 and 3-10-116. The court's proceedings must be recorded by electronic recording or stenographic transcription and all papers filed in a proceeding must be included in the record. A justice's court of record may be established by a resolution of the county commissioners or pursuant to 7-5-131 through *7-5-135 and* 7-5-137."

Section 15. Section 3-11-101, MCA, is amended to read:

"3-11-101. City court established — city court of record. (1) A city court is established in each city or town. A city judge shall establish regular sessions of the court. On judicial days, the court must be open for all business, civil and criminal. On nonjudicial days, as defined in 3-1-302, the court may transact criminal business only.

(2) A city may establish the city court as a court of record. If the city court is established as a court of record, it must be known as a "city court of record". The court's proceedings must be recorded by electronic recording or stenographic transcription, and all papers filed in a proceeding must be included in the record. A city court of record may be established by a resolution of the city commissioners or pursuant to 7-5-131 through *7-5-135 and* 7-5-137."

Section 16. Section 7-1-201, MCA, is amended to read:

"7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, Title 7, chapter 11, part 10, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

(a) the number of *administrative* board, district *board*, or commission members;

(b) the terms of the members;

(c) whether members are entitled to mileage, per diem, expenses, and salary; and

(d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, *a* district *board*, or *a* commission may be assigned responsibility for a department or service district.

(b) An administrative board, *a* district *board*, or *a* commission may:

(i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law; *and*

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, *a* district *board*, or *a* commission must grant the *administrative* board, district *board*, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, *a* district *board*, or *a* commission may employ personnel to assist in its functions.

(3) (a) ~~Administrative boards, districts, and commissions~~ *An administrative board, a district board, or a commission* may be made elective.

(b) If an administrative board*, a district board, or a commission* is made elective ~~and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304~~*, the election must be conducted as provided in [sections 1 through 5]*. ~~A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.~~

(4) ~~Administrative boards, districts, and commissions~~ *An administrative board, a district board, or a commission* may not sue or be sued independently of the local government unless authorized by state law.

(5) *(a)* ~~Members must~~ *If administrative board, district board, or commission members are to* be appointed*, the members must be appointed* by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

~~(6)~~*(b)* The county commissioners shall maintain a register of appointments, including:

~~(a)~~*(i)* the name of the *administrative* board, district *board*, or commission;

~~(b)~~*(ii)* the date of appointment and confirmation, if any is required;

~~(c)~~*(iii)* the length of term;

~~(d)~~*(iv)* the name and term of the presiding officer and other officers of each administrative board, district *board*, or commission; and

~~(e)~~*(v)* the date, time, and place of regularly scheduled meetings.

~~(7)~~*(c)* Terms ~~of all members, except elected members,~~ *for members of elected or appointed boards or commissions* may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

~~(8)~~*(6)* An administrative board, *a* district *board*, or *a* commission must consist of a minimum of 3 members and must have an odd number of members.

~~(9)~~*(7)* The resolution creating an administrative board, *a* district *board*, or *a* commission may provide for voting or nonvoting ex officio members.

~~(10)~~*(8)* Two or more local governments may provide for *a* joint ~~boards, districts, or commissions~~ *administrative board, district board, or commission* to be established by interlocal ~~agreements~~ *agreement*.

~~(11)~~*(9)* A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting unless the resolution creating the board, district, or commission specifies otherwise.

~~(12)~~*(10)* An administrative board, *a* district *board*, or *a* commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

~~(13)~~*(11)* An administrative board, *a* district *board*, or *a* commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

~~(14)~~*(12)* Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, *a* district *board*, or *a* commission. The county commissioners may prescribe by resolution additional qualifications for membership.

~~(15)~~*(13)* A person may be removed from an administrative board, *a* district *board*, or *a* commission for cause by the county commissioners or as provided by resolution.

~~(16)~~*(14)* A resolution creating an administrative board, *a* district *board*, or *a* commission must contain, if applicable, budgeting and accounting requirements for which the *administrative* board, district *board*, or commission is accountable to the county commissioners.

~~(17)~~*(15)* If a municipality creates a special district in accordance with Title 7, chapter 11, part 10, the governing body of the municipality shall comply with this section if the governing body chooses to have the special district governed by a separate board."

Section 17. Section 7-1-2121, MCA, is amended to read:

"7-1-2121. Publication and content of notice — proof of publication. *(1)* Unless otherwise specifically provided *by law and except as provided in 13-1-108*, whenever a local government unit other than a municipality is required to give notice by publication, ~~the following~~ *this section* applies~~:~~.

~~(1)~~*(2)* Publication must be in a newspaper meeting the qualifications of subsections ~~(2)~~ *(3)* and ~~(3)~~ *(4)*, except that in a county where a newspaper does not meet these qualifications, publication must be made in a qualified newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body.

~~(2)~~*(3)* (a) The newspaper must:

(i) be of general circulation;

(ii) be published at least once a week;

(iii) be published in the county where the hearing or other action will take place; and

(iv) have, prior to July 1 of each year, submitted to the clerk and recorder a sworn statement that includes:

(A) circulation for the prior 12 months;

(B) a statement of net distribution;

(C) itemization of the circulation that is paid and that is free; and

(D) the method of distribution.

(b) A newspaper of general circulation does not include a newsletter or other document produced or published by the local government unit.

~~(3)~~*(4)* In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

~~(4)~~*(5)* If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

~~(5)~~*(6)* The notice must be published twice, with at least 6 days separating each publication.

~~(6)~~*(7)* The published notice must contain:

(a) the date, time, and place of the hearing or other action;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice by publication.

~~(7)~~*(8)* A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

~~(8)~~*(9)* Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

~~(9)~~*(10)* If the newspaper fails to publish a second notice, the local government unit must be considered to have met the requirements of this section as long as the local government unit submitted the required information prior to the submission deadline and the notice was posted in three public places in the county that were designated by resolution and, if the county has an active website, was posted on the county's website at least 6 days prior to the hearing or other action for which notice was required."

Section 18. Section 7-1-4130, MCA, is amended to read:

"7-1-4130. Petition. Whenever a petition is authorized, unless the section authorizing the petition establishes different criteria, the petition is subject to 7-5-131 through *7-5-135 and* 7-5-137."

Section 19. Section 7-2-2215, MCA, is amended to read:

"7-2-2215. Election on question of creating new county — proclamation and notice. (1) Within 2 weeks after ~~its~~ *the* determination ~~of the truth of the allegations of~~ *that* the *signatures on the* petition *are valid and sufficient*, the board of county commissioners shall order and give notice of an election to be held for the purpose of determining whether the territory proposed to be taken from the county is to be established and organized into a new or enlarged county, for the election of officers, and for the location of a county seat if the vote at the election is in favor of the ~~establishment and organization of a new county formed from a portion of one existing county or from portions of two or more existing counties~~ *question*.

(2) ~~The question of determining whether the proposed territory is taken from the county and added to the proposed new county must be included on the ballot for the next regular or primary election scheduled not less than 60 days after the date of the order and notice~~ *The election must be conducted in accordance with [sections 6 through 10]*.

(3) All registered electors of the county are entitled to vote at the election. ~~Registration and transfers of registration must be made and must close in the manner and at a time provided by law for registration and transfers of registration for a general election in Montana.~~

(4) If the proposed new county is an existing county to be enlarged by territory taken from the county in which the petition was filed, the board of county commissioners of the proposed new county shall *also* hold an election in the manner described in subsections (1) through (3)."

Section 20. Section 7-2-2604, MCA, is amended to read:

"7-2-2604. Consideration of petition — submission to voters — *withdrawal of signatures.* (1) ~~For the purpose of testing the sufficiency of any petition which may be presented to the county commissioners as provided in this section, the county commissioners shall compare such petition with the pollbooks in the county clerk's office constituting the returns of the last general election held in their county for the purpose of ascertaining whether such petition bears the names of at least 50% of the voters listed therein.~~ *The county election administrator shall verify signatures on the petition within 30 days of when the signed petition is filed.*

(2) If the *county election administrator determines that the* petition is signed by at least 50% of the ~~qualified electors of such county~~ *county's electors who voted in the last general election*, the board of county commissioners must ~~at the next general election~~ submit the question of *the* removal *of the county seat* to the electors of the county. *The election on the question of removal of the county seat must be held in accordance with [sections 6 through 10].*

(3) If ~~such~~ *the* petition ~~then shows that it~~ has not been signed by at least 50% of the ~~voters of the county~~ *county's electors who voted in the last general election*, ~~after deducting from the original petition the names of all persons who may have signed such original petition and who may have filed or caused to be filed with the county clerk of said county or the board, on or before the date fixed for the hearing, their statement in writing of the withdrawal of their names from the original petition, it shall be deemed insufficient and~~ the question of the removal of the county seat shall not be submitted *to electors*.

(4) A person who signed the petition may request that the person's signature not be counted by filing a written request with the county clerk before the signatures are validated and counted pursuant to this section."

Section 21. Section 7-2-2705, MCA, is amended to read:

"7-2-2705. Petition to amend proposed consolidation. (1) At any time prior to 5 days before the date fixed for consideration and final action on the petition, 50% of the registered electors residing within a particular part or portion of the county may file with the county clerk of the county a petition in writing, signed by them, asking that the part or portion of the county within which the petitioners reside not be attached to the county designated in the petition for abandonment but be attached to some other adjoining county. A person, after signing the petition, may ~~not be allowed or permitted to~~ withdraw the person's signature or name from the petition *in the same manner as provided in 7-2-2604(4).*

(2) The petition authorized by subsection (1) must definitely, particularly, and accurately describe the boundaries of the part or portion of the county that the petitioners desire to be attached to the other adjoining county and must specify and name the other adjoining county to which the part or portion is to be attached if the county is abandoned and abolished.

(3) Separate and independent petitions may be filed by registered electors residing within the boundaries of separate and distinct and different parts or portions of the county, asking that, if the county is abandoned, the territory embraced within the boundaries described in the petition be attached to and become parts of the same or different adjoining counties other than the county named and designated in the petition for abandonment."

Section 22. Section 7-2-2709, MCA, is amended to read:

"7-2-2709. Election on question of abandonment and consolidation. (1) (a) Within 14 days after transmittal of the resolution provided for in 7-2-2707, the boards of county commissioners of the county in which the petition referred to in the resolution was filed and of each county designated in the resolution as a county to which any of the territory of the county, if abandoned and abolished, would be attached and made a part~~,~~ shall, in a joint meeting and by joint resolution of the boards, call ~~a special~~ *an* election in all affected counties ~~to be held in conjunction with the next regular or primary election~~. *The election must be conducted in accordance with [sections 6 through 10].*

(b) ~~The joint resolution shall fix a day for holding the election in the counties. If a general election will be held in the counties not less than 90 days or more~~

~~than 120 days after the date of the resolution provided for in 7-2-2707, the joint resolution must direct that the question be submitted to the registered electors of the counties at the general election.~~ The joint resolution must be filed in the office of the secretary of state, and copies of the resolution must be transmitted to the election administrator of each of the counties in which the election is to be held.

(2) At the election there must be submitted:

(a) to the registered electors of the county in which the petition was filed, the question of whether or not the county is to be abandoned and abolished and its territory attached to and made a part of the county designated and named for the purpose in the petition; and

(b) to the registered electors of each county named and designated in the resolution as a county to which a part of the territory of the county proposed to be abandoned and abolished is to be attached and made a part if the county is abandoned and abolished, the question of whether or not the part of the territory of the county, if abandoned and abolished, described in the resolution must be attached to and become a part of the county."

Section 23. Section 7-2-2804, MCA, is amended to read:

"7-2-2804. Order for election — registered electors entitled to vote. (1) Upon execution of an interlocal agreement under 7-2-2803(2), the boards of county commissioners in the adjoining counties for which boundary changes are proposed shall, after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing in the area proposed to be moved from one county to another in order to accept comment on the proposed cost of compliance with 7-2-2807 as stated in the interlocal agreement pursuant to 7-2-2803(2). After the public hearing, the boards of county commissioners shall order and give notice of an election to be held for the purpose of determining whether or not to change the boundaries of the adjoining counties. ~~The order may not be made less than 75 days before the election is to be held.~~

(2) ~~The question of determining whether or not to change the boundaries of the adjoining counties must be included on the ballot for the next regular election scheduled not less than 75 days after the date of the order and the notice.~~

~~(3)~~ All registered electors of the adjoining counties are entitled to vote at the election.

~~(4)~~*(3)* The notice must require that the ballot contain the legal description of the proposed boundary change, together with any descriptive name or names for the property that may be in common use.

~~(5)~~*(4)* The election must be conducted in conformance with ~~the provisions of Title 13 unless otherwise provided for in 7-2-2804 through 7-2-2806~~ *[sections 6 through 10]*."

Section 24. Section 7-2-4104, MCA, is amended to read:

"7-2-4104. Election on question of organization. (1) After filing the petition and census, if there is the requisite number of inhabitants for the formation of a municipal corporation as required in 7-2-4103, the county commissioners shall call an election ~~of~~ *for* all the registered electors residing in the territory described in the petition.

(2) The election must be held at a convenient place within the territory described in the petition, to be designated by the board. ~~If possible, the election must be held in conjunction with a regular or primary election~~ *The election must be conducted in accordance with [sections 6 through 10]*.

(3) The ballots used at the election must contain the words "For incorporation" or "Against incorporation"~~, and all elections must be conducted as provided in Title 13~~."

Section 25. Section 7-2-4106, MCA, is amended to read:

"7-2-4106. ~~First election~~ *Election* for officers — *special provisions for first election of officers.* (1) When the incorporation of a city or town is completed, the board of county commissioners shall give notice ~~for 30 days in a newspaper published within the limits of the city or town or, if none is published within the limits, by posting notices in six public places within the limits of the city or town of the time and place or places of holding the first election for offices of the city or town~~ *as prescribed in 13-1-108 of an election of officers*.

(2) For the first election of officers, a primary election may not be held. The election ~~may~~ *must* be ~~held in conjunction with a regular or primary election~~ *conducted in accordance with [sections 6 through 10]. For each subsequent election of officers, the election must be conducted in accordance with Title 13 provisions applicable to primary and general elections.*

~~(2)~~*(3)* At ~~the~~ *an* election *for officers*, all *of* the electors qualified by the general election laws of the state who have resided within the limits of the city or town for 6 months and within the limits of the ward for 30 days preceding the election are qualified electors and may choose officers for the city or town, to hold office as prescribed in 7-2-4107.

~~(3) The board shall appoint election judges and canvass and declare the result of the election. The election must be conducted in the manner required by law for the election of county officers.~~

(4) ~~If the first election of officers is not held in conjunction with a regular or primary election, the~~ *The* offices filled in the *first* election *for officers* may be occupied only until the next *general* election ~~regularly scheduled~~ for those offices."

Section 26. Section 7-2-4314, MCA, is amended to read:

"7-2-4314. Hearing on question of annexation — ~~vote~~ *election* on ~~question of~~ annexation — resolution of annexation. (1) (a) The city or town clerk shall, at the next regular meeting of the city or town council after the expiration of the 20-day period provided for in 7-2-4313, forward all written communication received by the clerk for the city or town council's consideration.

(b) Except as provided in subsection (1)(d), if the city or town council, after considering all written communication, adopts a resolution approving the annexation, the implementation of the resolution must be approved by the vote of the registered voters residing in the area proposed for annexation. The resolution must state the date on which the proposed annexation is intended to take effect.

(c) ~~Within 45~~ *Except as provided in subsection (1)(d), no sooner than 85* days ~~of~~ *after* adopting the resolution for annexation, the city or town council shall submit the question of approving the resolution to the registered voters residing in the area proposed for annexation. A notice of election must be mailed to all registered voters residing in the area proposed for annexation.

(d) If the area to be annexed contains ~~less~~ *fewer* than 300 recorded parcels, the city or town council, after considering all written communication, may adopt a resolution approving the annexation *without an election* and the boundaries of the city or town must be extended to include the platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed. An area annexed pursuant to this subsection may include land used for railroad

purposes. ~~A~~ *However, a* city or town council may not annex by resolution an area containing ~~less~~ *fewer* than 300 recorded parcels if the resolution is disapproved in writing by a majority of real property owners of the area proposed to be annexed. If the resolution is disapproved by a majority of the landowners, the city or town council may not on its own initiative propose further resolutions relating to the annexation of the area or any portion of the area, without petition, for a period of 1 year.

(2) ~~Except as provided in subsection (1)(d)~~ *If a resolution subject to approval at an election pursuant to subsections (1)(b) and (1)(c) is not approved by voters*, further resolutions relating to the annexation of the area or any portion of the area may not be considered or acted ~~upon~~ *on* by the council on its own initiative, without petition, for a period of 5 years from the date of ~~disapproval by the voters as provided in subsection (1)~~ *the election*."

Section 27. Section 7-2-4601, MCA, is amended to read:

"7-2-4601. Annexation by petition — *when election required.* (1) The boundaries of any incorporated city or town may be altered and new areas annexed as provided in this part.

(2) The council or other legislative body of a municipal corporation, upon receiving a written petition for annexation containing a description of the area to be annexed and signed by not less than 33 1/3% of the registered electors of the area proposed to be annexed, shall ~~without delay~~, *except as provided in subsection (3),* submit to the electors of the municipal corporation and to the registered electors residing in the area proposed by the petition to be annexed the question of whether the area should be made a part of the municipal corporation.

(3) (a) The governing body of a municipality need not submit the question of annexation to the qualified electors as provided in subsection (2) if it has received a written petition containing a description of the area requested to be annexed and signed by:

(i) more than 50% of the resident electors owning real property in the area to be annexed; or

(ii) the owner or owners of real property representing 50% or more of the total area to be annexed.

(b) The governing body may approve or disapprove a petition submitted under the provisions of subsection (3)(a) on its merits. When the governing body approves the petition, it shall pass a resolution providing for the annexation."

Section 28. Section 7-2-4602, MCA, is amended to read:

"7-2-4602. ~~Election~~ *Conduct of election* on question of annexation ~~by petition~~. ~~(1) The~~ *An election on the* question of annexation ~~may be submitted at the next general municipal election to be held in the municipal corporation or it may be submitted prior to the general election, either at a special election called for that purpose or at any other municipal election, except an election at which the submission of such question is prohibited by law.~~

~~(2) The election shall be conducted and the returns made in the same manner as other city or town elections. All election laws governing city and town elections shall govern, insofar as they are applicable~~ *must be conducted in accordance with [sections 6 through 10].*

~~(3) Whenever the question of annexation under this title is submitted at either a general city or town election or at a special election, separate ballots, shall be provided therefor.~~"

Section 29. Section 7-2-4606, MCA, is amended to read:

"7-2-4606. Resolution ~~of~~ *if* annexation *approved by voters.* (1) (a) If ~~it is found that~~ a majority of votes were cast in favor of the annexation, the city or town council or other legislative body shall, at a regular or special meeting held within 30 days of the election, pass and adopt a resolution providing for the annexation.

(b) The resolution must ~~state~~ *include a statement* that a petition has been filed with the council or other legislative body ~~with~~ *containing* the signatures of 33 1/3% of the resident electors owning real property in the area proposed to be annexed; a description of the boundaries of the area to be annexed; a copy of the resolution ordering ~~a general or special~~ *the* election; a copy of the notice of the election; the time and result of the canvass of the votes received in favor of annexation and the number of votes cast against annexation; and *a statement* that the boundaries of the city or town ~~will~~ *are to* be extended to include the area described in the petition for annexation. The resolution must be incorporated in the minutes of the council or legislative body.

(2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been filed with the governing body containing the signatures of more than 50% of the resident electors owning real property or the owners of real property representing 50% or more of the total area to be annexed; a description of the boundaries of the area to be annexed; and a statement that the boundaries of the municipality are to be extended to include the area described in the petition for annexation. The resolution must be incorporated in the minutes of the governing body. Upon incorporation in the minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."

Section 30. Section 7-2-4733, MCA, is amended to read:

"7-2-4733. Vote required on proposed capital improvements. ~~Included within the~~ *The* plan *required in 7-2-4732* must ~~be~~ *include a* methodology whereby *the residents within* the area to be annexed may vote ~~upon~~ *on* any proposed capital improvements. ~~Should a negative vote be cast by over~~ *If less than* 50% of the residents in the section or sections to be annexed ~~in such election~~ *vote in favor of the annexation*, the area may not be annexed. *An election pursuant to this section must be conducted as provided in [sections 6 through 10].*"

Section 31. Section 7-2-4902, MCA, is amended to read:

"7-2-4902. Disincorporation by election. (1) Any city or town may be disincorporated in the manner provided in this section.

(2) If the registered electors of a city or town equal in number to at least 15% of the number of *municipal* electors registered at the last municipal general election petition the board of county commissioners of the county where the city or town is situated to disincorporate the city or town or if the city governing body by a two-thirds vote of all its members resolves to disincorporate, then the board shall order ~~a special~~ *an* election to be held within the city or town on the question of disincorporating the city or town. The election must be ~~held in conjunction with a regular or primary election~~ *conducted in accordance with [sections 6 through 10].*"

Section 32. Section 7-2-4904, MCA, is amended to read:

"7-2-4904. ~~Details of election on disincorporation~~ *Ballot form.* ~~(1) The election shall be conducted in the same manner as a regular city or town election. The election returns shall be made and canvassed in the same manner as are general election returns.~~

~~(2)~~ The form of the ballot ~~shall~~ *must* be:

☐ FOR the disincorporation of .... (insert name of city or town)

☐ AGAINST the disincorporation of .... (insert name of city or town)."

Section 33. Section 7-3-103, MCA, is amended to read:

"7-3-103. Amendment of self-government charter or adopted alternative form of government — *election.* (1) An amendment to a self-government charter or an adopted alternative form of government may only be made by submitting the question of amendment to the electors of the local government *as provided in 7-3-149.* ~~To be effective, a proposed amendment must receive an affirmative vote of a majority of the electors voting on the question.~~ An amendment approved by the electors becomes effective on the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

(2) An amendment to a self-government charter or an adopted alternative form of government may be proposed ~~by initiative~~ by petition ~~of 15% of the electors registered at the last general election of the local government or by ordinance enacted by the governing body~~ *as provided in 7-3-125*. ~~The question on amendment of a charter or an adopted alternative form of government must be submitted to the electors at the next regular or primary election.~~

(3) The local government, by ordinance, may provide procedures for the submission and verification of initiative petitions."

Section 34. Section 7-3-121, MCA, is amended to read:

"7-3-121. Purpose. The purpose of 7-3-121 through *7-3-123,* 7-3-125*,* and 7-3-141 through 7-3-161 is to provide procedures for alteration of existing forms of local government."

Section 35. Section 7-3-122, MCA, is amended to read:

"7-3-122. Definitions. As used in ~~7-3-121 through 7-3-125 and 7-3-141 through 7-3-161~~ *this part*, unless the context indicates otherwise, the following definitions apply:

(1) "Authority" means:

(a) a municipal or regional airport authority as provided in Title 67, chapter 11;

(b) a conservancy district as provided in Title 85, chapter 9;

(c) a conservation district as provided in Title 76, chapter 15;

(d) a drainage district as provided in Title 85, chapter 8;

(e) an irrigation district as provided in Title 85, chapter 7;

(f) a hospital district as provided in Title 7, chapter 34, part 21;

(g) a water conservation and flood control district as provided in Title 76, chapter 5, part 11;

(h) a county water and sewer district as provided in Title 7, chapter 13, part 22; or

(i) an urban transportation district as provided in Title 7, chapter 14, part 2.

(2) "Finance administrator" means the individual responsible for the financial administration of the local government and generally means the county or city treasurer or town clerk unless the alternative form or governing body specifies a different individual.

(3) "Form of government" or "form" means one of the types of local government enumerated in 7-3-102 and the type of government described in 7-3-111.

(4) "Governing body" means the commission or the town meeting legislative body established in the alternative form of a local government under Title 7, chapter 3, parts 1 through 7.

(5) "Local improvement district" means an improvement district in which property is assessed to pay for specific capital improvements benefiting the assessed property.

(6) "Plan of government" has the meaning provided in 7-1-4121.

(7) "Records administrator" means the individual responsible for keeping the public records of the local government and generally means the county, city, or town clerk unless the alternative form or governing body specifies a different individual.

(8) "Subordinate service district" means a special district within a local government in which certain services are provided and in which taxes may be levied to finance the services."

Section 36. Section 7-3-125, MCA, is amended to read:

"7-3-125. Petition for alteration. (1) A petition for the alteration of an existing form of local government may be presented to the governing body of the local government. The petition must meet the requirements of 7-3-142 through 7-3-145.

(2) The petition must be signed by at least 15% of the electors of the local government registered at the last general election~~, and upon receipt of the petition the governing body shall call an election, as provided for in 7-3-149 through 7-3-151, on the proposed alteration~~. Whenever county-municipal consolidation is proposed, the petition must be signed by at least 15% of the electors residing within the municipality or municipalities proposed to be consolidated and *at least* 15% of the electors residing in the remainder of the county."

Section 37. Section 7-3-149, MCA, is amended to read:

"7-3-149. Election on alteration of form of government. (1) ~~The~~ *Upon the election administrator's verification that a petition filed pursuant to sections 7-3-121 through 7-3-123, 7-3-125, and 7-3-141 through 7-3-148 meets all the necessary requirements, the* governing body shall call ~~a special~~ *an* election on the question of an alteration of the form of government or *a* change in a plan of government proposed by *the* petition ~~to be held at the next regular or primary election that is at least 75 days after the call and the date of filing with the records administrator under 7-3-146. The records administrator shall prepare and print notices of the election~~. *The election must be conducted in accordance with [sections 6 through 10].*

(2) The cost of the election must be paid for by the local government.

(3) (a) The affirmative vote of a simple majority of those voting on the question is required for adoption.

(b) In any election involving the question of consolidation, each question must be submitted to the electors in the county and requires an affirmative vote of a simple majority of the votes cast in the county on the question for adoption. There is no requirement for separate majorities in local governments voting on consolidation.

(c) In any election involving the question of county merger, the questions must be submitted to the electors in the counties affected and require a majority of the votes cast on the questions in each affected county for adoption.

(d) If the electors disapprove the proposed new form of local government, amendments, or consolidation plan, the local government retains its existing form."

Section 38. Section 7-3-154, MCA, is amended to read:

"7-3-154. Judicial review. Judicial review to determine the validity of the procedures whereby any charter or alternative plan of government is adopted may be initiated by petition in district court of 10 or more registered voters of the local government brought within 60 days after the election at which the charter or plan of government, revision, or amendment is approved. If no petition is filed within that period, compliance with all the procedures required by 7-3-121 through *7-3-123,* 7-3-125*,* and 7-3-141 through 7-3-161 and the validity of the manner in which the charter or plan of government was approved is conclusively presumed. It is presumed that proper procedure was followed and all procedural requirements were met. The adoption of a charter or plan of government may not be considered invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected its adoption."

Section 39. Section 7-3-155, MCA, is amended to read:

"7-3-155. Three-year moratorium. (1) Unless the constitution requires otherwise, ~~the electors of any unit of local government that has voted upon~~ *an election on* the question of changing the form of local government, charter, or consolidation plan may not ~~vote on the question of changing the form of local government~~ *be conducted again* for 3 years.

(2) For the purposes of this section, general election dates are considered to be 1 year apart and may be used in computing the 3-year moratorium. An election on the question of changing an alternative form of a unit of local government may not be challenged as failing to conform with the moratorium provisions of this section because 3 full calendar years may not have elapsed."

Section 40. Section 7-3-160, MCA, is amended to read:

"7-3-160. Election of new officials — *subsequent elections of officials.* (1) Within 20 days after an election at which a new form of government or *a* change in a plan of government is approved by the electors, the governing body of the local government shall meet and order ~~a special primary and general~~ *an* election for the purpose of electing the officials required by the new form or plan of government. The ~~elections~~ *first election* for officials must be ~~held in conjunction with any other election of that government~~ *conducted in accordance with [sections 6 through 10]. A primary election may not be held. The officials elected shall hold office until the next election of officials.*

(2) ~~The order must specify:~~

~~(a) a date for the primary election to be held no later than the government's next regularly scheduled primary election; and~~

~~(b) a date for the general election to be held no later than the next regularly scheduled city or county general election following the primary election date established under subsection (2)(a).~~ *Each subsequent election of officials must involve a primary election and a general election. The primary election must be held on the date established in 13-1-107. The general election must be held on the date established in 13-1-104.*"

Section 41. Section 7-3-173, MCA, is amended to read:

"7-3-173. Establishment of study commissions. (1) A study commission may be established by an affirmative vote of the people. An election on the

question of conducting a local government review and establishing a study commission must be held *if*:

(a) ~~whenever~~ the governing body of the local government unit calls for an election by resolution;

(b) ~~whenever~~ a petition signed by at least 15% of the electors of the local government calling for an election is submitted to the governing body; or

(c) ~~whenever~~ 10 years have elapsed since the electors ~~have~~ voted on the question of conducting a local government review and establishing a study commission.

(2) The governing body shall call for an election~~, to be held on the primary election date,~~ on the question of conducting a local government review and establishing a study commission, as required by Article XI, section 9(2), of the Montana constitution, within 1 year after the 10-year period referred to in subsection (1)(c)."

Section 42. Section 7-3-174, MCA, is amended to read:

"7-3-174. Election *dates and* procedures. (1) ~~Votes cast~~ *An election* on the question of establishing a study commission ~~and for electing~~ *under 7-3-173 must be held in conjunction with a primary election held on the date established in 13-1-107.*

(2) An election of study commission members *under 7-3-176* ~~shall~~ *must* be *held in conjunction with a general election held on the date established in 13-1-104.*

(3) The elections must be counted, canvassed, and returned as provided in Title 13 for general elections.

~~(2)~~*(4)* The election administrator shall report the results of ~~all elections~~ *an election* conducted under 7-3-171 through 7-3-193 to the secretary of state within 15 days of the date the *election* results become official."

Section 43. Section 7-3-175, MCA, is amended to read:

"7-3-175. ~~Election on question of establishing study commission~~ *Ballot form and question.* ~~(1)~~ The question of conducting a local government review and establishing a study commission must be submitted to the electors in substantially the following form:

Vote for one:

☐ FOR the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the government.

☐ AGAINST the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the government.

~~(2) The question of conducting a local government review and establishing a study commission requires an affirmative vote of a majority of those voting on the question for passage.~~

~~(3) Except for elections to be conducted pursuant to 7-3-173(2), a special election on the question of reviewing a local government and establishing a~~

~~study commission must be held no sooner than 60 days and no later than 90 days after the passage of a resolution or the certification of a petition calling for an election on the question.~~"

Section 44. Section 7-3-176, MCA, is amended to read:

"7-3-176. Election of commission members — *appointments.* (1) ~~If the question of reviewing the local government and establishing a study commission is approved, an~~ *An* election to fill the positions on the local government study commission must be held ~~in conjunction with the first regularly scheduled election of the local government conducted after 90 days following the election establishing the study commission~~ *in accordance with 7-3-124.* A primary election may not be held.

(2) The names of study commission candidates who have filed declarations of nomination not later than ~~75 days before the date of the election~~ *the filing deadline established in [section 7]* must be placed on the ballot. There is no filing fee. The election is nonpartisan, and candidates must be listed without party or other designation or slogan. The secretary of state shall prescribe the ballot form for study commissioners.

(3) Candidates for study commission positions must be electors of the local government for which the study commission has been established. The candidates may not be elected officials of the local government.

(4) The number of candidates, equal to the number of study commission positions to be elected, receiving the highest number of votes, which includes votes cast for candidates who have officially filed nominations and votes for write-in candidates, must be declared elected. If there is a tie vote among candidates, the governing body shall decide by lot which candidate will fill the position.

(5) If *the number of candidates filing for election is equal to or less than the number of positions to be filled, the election administrator and governing body shall proceed in accordance with [section 7(4) and (5)]. If* the number of study commissioners elected is not equal to the number required to be selected, the presiding officer of the governing body, with the confirmation of the governing body, shall appoint the additional study commissioners within 20 days ~~of~~ *after* the election. An elected official of the local government may not be appointed."

Section 45. Section 7-3-178, MCA, is amended to read:

"7-3-178. Term of office — vacancies — compensation. (1) The term of office of study commission members begins on the day that their election to the study commission is declared or certified under 13-15-405 or on the day of their appointment and ends on the day of the vote on the alternative plan. If the alternative plan is adopted, the term continues for 90 days after the day of the vote on the alternative plan. If the commission recommends no alternative plan, the term ends 30 days after submission of the final report in accordance with 7-3-187.

~~(2) Except as provided in subsection (1), the term of office of study commission members terminates on the date of the first statewide general election following the election required by 7-3-176.~~

~~(3)~~*(2)* A vacancy on a study commission, including an ex officio member vacancy, must be determined in the same manner as a vacancy in municipal office as provided in 7-4-4111. A vacancy on a study commission must be filled by appointment by the governing body of the local government being studied by the commission. The appointment must be made within 30 days of the date the vacancy occurs.

~~(4)~~*(3)* Members of the study commission may not receive compensation other than for actual and necessary expenses incurred in their official capacity."

Section 46. Section 7-3-186, MCA, is amended to read:

"7-3-186. Study commission timetable. (1) Each local government study commission shall, within 90 days of its organizational meeting, establish a timetable for its deliberations and actions. The timetable must be published in a local newspaper of general circulation. The timetable may be revised, but each revision must be republished.

(2) The timetable must provide, at a minimum, the following provisions, to be accomplished chronologically in the order presented:

(a) conduct one or more public hearings for the purpose of gathering information regarding the current form, functions, and problems of local government;

(b) formulate, reproduce, and distribute a tentative report, containing the same categories of information required to be included in the final report;

(c) conduct one or more public hearings on the tentative report; *and*

(d) adopt the final report of the commission and set the date for ~~a special~~ *an* election on the question of adopting a new plan of government *pursuant to 7-3-192* or, if the study commission is not recommending any changes, publish and distribute the final report as provided in 7-3-187 within 60 days after the final report is adopted. ~~The special election must be held in conjunction with a regular or primary election.~~"

Section 47. Section 7-3-187, MCA, is amended to read:

"7-3-187. Final report. (1) A study commission shall adopt a final report. If the study commission recommends an alteration of a local government, the final report must contain the following materials and documents, each signed by a majority of the study commission members:

(a) those materials and documents required of a petition proposing an alteration of a local government in 7-3-142;

(b) a certificate establishing the date of the ~~special~~ election~~, which must be held in conjunction with a regular or primary election,~~ *pursuant to 7-3-192* at which the alternative form of government or change in a plan of government is presented to the electors and a certificate establishing the form of the ballot question or questions; and

(c) a certificate establishing the dates of the first primary and general elections for officers of a new government if the proposal is approved and establishing the effective date of the proposal if approved.

(2) The final report must contain any minority report signed by members of the commission who do not support the majority proposal.

(3) If the study commission is not recommending any changes, its final report must indicate that changes are not recommended.

(4) The study commission shall file two copies of the final report with the department of administration, one of which the department shall forward to the state library. A copy of the final report must be certified by the study commission to the municipal or county records administrator within 30 days after the adoption of the final report.

(5) Sufficient copies of the final report must be prepared for public distribution. The final report must be available to the electors not later than 30 days prior to the election on the issue of adopting the alternative form or plan of

government. Copies of the final report may be distributed to electors or residents of the local government or governments affected.

(6) After submission of the final report, the commission shall deposit copies of its minutes and other records with the county clerk and recorder."

Section 48. Section 7-3-192, MCA, is amended to read:

"7-3-192. Election on recommendation. (1) An alternative form or plan of government recommended by a study commission must be submitted to the voters *in the same manner* as provided in 7-3-149. ~~The election must be held in conjunction with any regularly scheduled election.~~

(2) ~~General ballot~~ *Ballot* requirements and treatment of suboptions on an alternative form or plan of government recommended by a study commission must be the same as for recommendations by petition as provided in 7-3-150 and 7-3-151."

Section 49. Section 7-3-1204, MCA, is amended to read:

"7-3-1204. Petition for city-county consolidated government — election required. (1) The question of the abandonment and termination of the separate corporate existence and government of a county and of each city and town therein and the consolidation and merging of the existence and government of the county and each of the cities and towns therein into one municipal corporation and government under the provisions of this part and part 13 shall be submitted to the registered electors of the county if a petition is filed in the office of the election administrator of the county, signed by at least 20% of the electors of the county whose names appear on the official register of voters of the county on the date of the filing of the petition, requesting that such question be submitted to the registered electors of the county.

(2) The petition shall be substantially in the form and shall be signed, verified, and filed in the manner prescribed in 7-5-132 through *7-5-135 and* 7-5-137 for initiative and referendum petitions and shall designate therein the name by which the consolidated government is to be known, which must be either that of the county or of some one of the cities or towns therein."

Section 50. Section 7-3-1205, MCA, is amended to read:

"7-3-1205. Certification of petition — board action — *election*. (1) If the county election administrator finds that the petition or amended petition is signed by the required number of registered electors, the election administrator shall certify the finding to the board of county commissioners at their next regular meeting.

(2) The board shall, within 10 days after receiving the election administrator's certificate, order ~~a special~~ *an* election to be held on the question. ~~The order must specify that the election will be held in conjunction with the next regular or primary election. The board of county commissioners shall issue a proclamation setting forth the purpose for which the special election is held and the date of holding the election. The proclamation must be published in the manner prescribed by 13-1-108~~ *The election must be conducted in accordance with [sections 6 through 10]*."

Section 51. Section 7-3-1206, MCA, is amended to read:

"7-3-1206. Form of ballot. ~~At such election the ballots to be used shall be printed on plain white paper, shall conform as nearly as possible to the ballots used in general elections, and shall have printed thereon the following~~ *The ballot for an election pursuant to 7-3-1205 shall present the following question*:

Shall the corporate existence and government of the county of .... and of each and every city and town therein be consolidated and merged into one municipal

corporation and government under the provisions of chapter 121, acts of the eighteenth legislative assembly of the state of Montana, to be known and designated as "city and county of ...."?

☐ YES.

☐ NO."

Section 52. Section 7-3-1208, MCA, is amended to read:

"7-3-1208. Election of commission upon favorable vote. (1) If the majority of the votes cast at the election are in favor of the consolidation and merging, the board of county commissioners of the county shall, within 2 weeks after the election returns have been canvassed, order ~~a special~~ *an* election to be held in ~~conjunction with the next regular or primary election~~ *accordance with [sections 6 through 10]* for the purpose of electing the number of members of the commission to which the consolidated municipality is entitled. This order must specify the ~~time~~ *date* when the election will be held. ~~The board of county commissioners, immediately upon making the order, shall issue a proclamation setting forth the purpose for which the special election is held and the date of holding the election. The proclamation must be published in the manner prescribed by 13-1-108.~~

(2) A primary election may not be held for the purpose of nominating candidates ~~for members of the commission to be voted for at the special election~~. ~~The candidates must be nominated directly by a petition that is in substantially the same form and signed by the same number of signers as required for primary nominating petitions. The election must be conducted, the vote must be returned and canvassed, and the result must be declared in the same manner as provided by law in respect to general elections~~ *A candidate for commissioner shall file a declaration of candidacy with the election administrator within the timeframe specified in [section 7]*."

Section 53. Section 7-3-1209, MCA, is amended to read:

"7-3-1209. Resolution declaring creation of consolidated government. (1) At the first meeting of the commission whose members are first elected under the provisions of this part, the commission shall adopt a resolution reciting the filing of the petition provided for in 7-3-1204, the ordering and holding of ~~a special~~ *an* election as requested in the petition, the result of the election and the holding of ~~the special~~ *an* election for and the election of the members of the first commission, and the name and designation of the consolidated municipality. This resolution must be in duplicate and signed by all of the members of the commission and also entered at length on the journal of the commission. One copy of the resolution must be filed in the office of the clerk of the commission, and the other copy must be transmitted to and filed in the office of the secretary of state.

(2) Immediately upon the adoption of the resolution by the commission, the separate corporate existence of the county and of each city and town therein is considered to be consolidated and merged into one municipal corporation under the name selected, designated, and adopted as provided in this part, and the consolidated municipality is considered to have succeeded to and to possess and own all of the property and assets of every kind and description and shall, except as otherwise provided, become responsible for all of the obligations and liabilities of the county, cities, and towns consolidated and merged."

Section 54. Section 7-3-1216, MCA, is amended to read:

"7-3-1216. Term of office of commission members. (1) Except as provided in subsection (2), the term of office of members of the commission ~~shall~~

must be 4 years and ~~shall~~ *must* commence on the first Monday ~~of~~ *in* January following their election.

(2) The terms of office of the members first elected ~~at such special election~~ shall commence on the first day of the third month following their election, and the terms of office of a majority of such members first elected, to be determined by lot, shall expire when their successors are elected and qualified in the first year following their election, and the terms of the remaining members first elected shall expire when their successors are elected and qualified in the third year following their election."

Section 55. Section 7-3-1218, MCA, is amended to read:

"7-3-1218. Meetings of commission. (1) (a) Except as provided in subsection (1)(b), at 2 p.m. on the first Monday ~~of~~ *in* January following a ~~regular~~ *general* municipal election, the commission shall meet at the courthouse in the consolidated municipality and the newly elected members shall assume the duties of office.

(b) The first meeting of the commission after the ~~special~~ election at which the first members of the commission are elected ~~shall~~ *must* be held at 2 p.m. on the first day of the third month following the special election, and at this meeting the members of the commission shall determine by lot the members whose terms will expire on the first Monday ~~of~~ *in* January in the first year following ~~such special~~ *their* election and the members whose terms will expire on the first Monday ~~of~~ *in* January in the third year following ~~such~~ *their* election.

(2) Thereafter the commission shall meet ~~at such times~~ as ~~may be~~ prescribed by ordinance or resolution, but not less frequently than once in each month. Special meetings ~~shall~~ *must* be called by the clerk of the commission ~~upon~~ *on* written request of the president, the manager, or a majority of the members of the commission. A notice of a *special* meeting ~~shall~~ *must* state the subject to be considered at the meeting, and no other subject ~~shall~~ *may* be considered at the *special* meeting.

(3) All meetings of the commission and of committees *of the commission* ~~thereof shall~~ *must* be open to the public, and the rules of the commission ~~shall~~ *must* provide that citizens of the municipality ~~shall~~ *must* have a reasonable opportunity to be heard at any meeting in regard to any matter considered ~~thereat~~ *at the meeting*."

Section 56. Section 7-3-1219, MCA, is amended to read:

"7-3-1219. Organization and officers of commission. (1) At the first meeting of the commission following the ~~special~~ election at which the members of the commission are first elected and after that time at ~~its~~ *the commission's* meeting on the first Monday ~~of~~ *in* January following each general election at which members of the commission are elected, the commission shall choose one of its members as president and another as vice president.

(2) The president shall preside at meetings of the commission and shall exercise the powers and perform the duties conferred and imposed by part 13 or this part and the ordinances of the municipality. The president is the official head of the municipality for all ceremonial purposes, by the courts for serving civil processes, and by the governor for purposes of military law. In time of public danger or emergency, the president shall, if authorized by a vote of the commission, take command of the police, maintain order, and enforce the law. If a vacancy occurs in the office of president or in case of the president's absence or disability, the vice president shall act as president for the unexpired term or during the continuance of the absence or disability.

(3) The director of finance is ex officio clerk of the commission and shall, either in person or by deputy, keep the records of the commission and perform other duties that may be required by part 13 or this part or by the commission."

Section 57. Section 7-3-1229, MCA, is amended to read:

"7-3-1229. Submission of initiative measure to electors. (1) If the commission fails to pass an ordinance proposed by initiative petition or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors either in its original form or with any change or amendment presented in writing, either at a public hearing before the committee to which the proposed ordinance was referred or during consideration by the commission. If the committee of petitioners requires the submission of a proposed ordinance to a vote of the electors, the committee shall certify that fact to the clerk and file in the clerk's office a certified copy of the ordinance, in the form in which it is to be submitted, within 10 days after final action on the ordinance by the commission.

(2) ~~Upon~~ *On* receipt of the certified copy of a proposed ordinance from the committee of the petitioners, the clerk shall certify the fact to the commission at its next regular meeting. The proposed ordinance must be submitted to a vote of the electors at ~~the next regular or primary election~~ *an election conducted in accordance with [sections 6 through 10]*. If a majority of those voting on a proposed ordinance vote in favor of the proposed ordinance, it is an ordinance of the municipality."

Section 58. Section 7-3-1231, MCA, is amended to read:

"7-3-1231. Action on referendum petition. (1) If a referendum petition or amended petition is found sufficient, the clerk shall certify that fact to the commission at its next regular meeting and the ordinance or part of the ordinance set forth in the petition may not go into effect, or further action under the ordinance is suspended if it has gone into effect, until approved by the electors.

(2) Upon receipt of the clerk's certificate, the commission shall reconsider the ordinance or part of the ordinance, and its final vote ~~upon~~ *after* reconsideration must be ~~upon~~ *on* the question "Shall the ordinance (or part of the ordinance) set forth in the referendum petition be repealed?" If ~~upon~~ *after* reconsideration the ordinance or part of the ordinance is not repealed, it must be submitted to the electors at ~~the next regular or primary election~~ *an election conducted in accordance with [sections 6 through 10]*. If when submitted to the electors any ordinance or part of an ordinance is not approved by a majority of those voting on the issue, it is repealed."

Section 59. Section 7-3-1254, MCA, is amended to read:

"7-3-1254. Nonpartisan nature of government. (1) A person holding an appointive office or position in the municipal government may not directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or purpose. A person may not orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or purpose from any person holding an appointive office or position in the municipal government. A person may not use or promise to use the person's influence or official authority to secure any appointment or prospective appointment to any position in the service of the municipality as a reward or return for personal or partisan political service. A person may not take part in preparing any political assessment, subscription, or contribution with the intent that it should be sent or presented to or collected from any person

in the service of the municipality. A person may not knowingly send or present, directly or indirectly, in person or otherwise, any political assessment, subscription, or contribution to or request its payment by any person in the service of the municipality.

(2) A person in the service of the municipality may not discharge, suspend, lay off, reduce in grade, or in any manner change the official rank or compensation of any person in service or threaten to do so for withholding or neglecting to make any contribution of money or service or any valuable thing for any political service. A person holding an appointive office or place in the municipal government may not act as an officer in a political organization or serve as a member of a committee of any political organization or circulate or seek signatures for any petition provided for by ~~primary or~~ election laws.

(3) A person who, individually or in cooperation with one or more persons, willfully or corruptly violates any of the provisions of subsections (1) and (2) ~~shall~~ *must* be *found* guilty of a misdemeanor and ~~shall upon~~ *on* conviction *must* be punished by a fine of not less than $50 or more than $500, by imprisonment for a term not exceeding 3 months, or both, and if the person is an officer or employee of the municipality, the person shall immediately forfeit the office or employment."

Section 60. Section 7-3-1271, MCA, is amended to read:

"7-3-1271. General provisions related to elections. (1) For any election held on the question of the adoption of this part and part 13 and for the first election of members of the commission ~~thereunder~~ if adopted, the county election administrator and board of county commissioners shall exercise the powers and perform the duties respecting elections prescribed for county election administrators and boards of county commissioners by the ~~general~~ *election* laws of the state.

(2) After the adoption of this part and part 13 by the electors of the county and the election and qualification of a commission ~~thereunder~~, elections ~~shall~~ *must* be conducted as provided in Title 7 and Title 13."

Section 61. Section 7-3-4208, MCA, is amended to read:

"7-3-4208. Petition to organize under commission form — election required. (1) When a petition on the question of reorganization under this part is filed with the city council and is signed by ~~not less than~~ *at least* 25% of the qualified electors of the city registered for the last preceding general city election, the city council shall order ~~a special~~ *an* election to be held ~~in conjunction with the next regular or primary election~~ *in accordance with [sections 6 through 10]*. At this election, the question of reorganization of the city under the provisions of this part must be submitted to the qualified electors of the city.

(2) The order of the city council must specify the time when the election will be held *pursuant to [section 9]*."

Section 62. Section 7-3-4210, MCA, is amended to read:

"7-3-4210. Form of ballot. At ~~such~~ *an* election *under 7-3-4208* the ballots ~~to be used shall be printed upon plain white paper and shall~~ *must* be headed "~~Special election~~ *Election* for the purpose of submitting to the qualified electors of the city of .... the question of reorganization of the city of .... under Chapter 57, Laws of 1911" and ~~shall~~ *must* be substantially in the following form:

☐ FOR reorganization of the city of .... under chapter 57, Laws of 1911.

☐ AGAINST reorganization of the city of .... under chapter 57, Laws of 1911."

Section 63. Section 7-3-4212, MCA, is amended to read:

"7-3-4212. Effect of vote on question. (1) If ~~such~~ *the* proposition is adopted, the mayor shall transmit to the governor, to the secretary of state, and to the county clerk and recorder each a certificate stating that ~~such~~ *the* proposition was adopted.

(2) If ~~such~~ *the* proposition ~~shall~~ *was* not ~~be adopted~~ *approved* at ~~such special~~ *the* election, ~~such~~ *the* proposition ~~shall~~ *may* not again be submitted to the electors of ~~such~~ *the* city within a period of 2 years ~~thereafter~~ *after the date of the last submission*."

Section 64. Section 7-3-4214, MCA, is amended to read:

"7-3-4214. First term of office. (1) The *terms of office of the* mayor and council members ~~elected at a special election shall qualify and their terms of office must begin~~ *begin* on the first Monday after their election *is certified, or if there is a recount, after the recount results are certified*. The terms of office of the mayor and council members or city council members ~~in the city~~ *who are* in office at the beginning of the ~~term~~ *terms* of office of the council members first elected under the provisions of this part ~~end~~ *terminate*, and the terms of office of all *of* their appointed officers in ~~force in~~ the city, except as provided in this part, ~~end~~ *terminate*, as ~~soon as the council shall~~ *stated* by resolution ~~declare~~ *of the council*.

(2) The terms of office of the mayor and all council members ~~elected at the special election~~ expire on the first Monday in January of the first even-numbered year following their election. At the first ~~regular~~ *general* city election held in the year prior to the year in which the terms of office of the mayor and council members ~~elected at the special election~~ expire, a mayor and two council members must be elected in cities having a population of less than 25,000. The mayor elected at the first general city election shall hold office for 4 years, one of the council members elected at the first city election shall hold office for 2 years, and the other of the council members elected at the first general city election shall hold office for 4 years, beginning with the first Monday in January of the year following their election. A mayor and four council members must be elected in cities having a population of 25,000 or more, and the mayor elected at the first general city election shall hold office for 4 years. Two of the council members elected at the first general city election shall hold office for 2 years, and the other two of the council members elected at the first general city election shall hold office for 4 years, beginning with the first Monday in January of the year following their election.

(3) The council members elected at the first general city election shall decide by lot, in a manner that they may select, which members shall hold the office of council member ~~the~~ *for a* term ~~of which~~ *that* expires 2 years after the election and which members shall hold the office for a term of 4 years."

Section 65. Section 7-3-4222, MCA, is amended to read:

"7-3-4222. Adoption of ordinances — *petition to protest — election.* (1) Each ordinance or resolution appropriating money, ordering any street or sewer improvement, making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose must be complete in the form in which it is finally passed and remain on file with the city clerk for public inspection at least 1 week before the final passage or adoption of the ordinance or resolution.

(2) An ordinance passed by the council, except when otherwise required by the general laws of this state or the provisions of this part and except an ordinance for the immediate preservation of the public peace, health, or safety

that contains a statement of its urgency and is passed by a two-thirds vote of the council, may not go into effect before 10 days from the time of its final passage. If during the 10-day period a petition *protesting against the ordinance and* signed by ~~electors of the city equal in number to~~ at least 25% of the ~~entire number of persons~~ *qualified electors of the city* registered ~~to vote at~~ *for* the last preceding general ~~municipal~~ *city* election~~, protesting against the passage of the ordinance,~~ is presented to the council, the ordinance is suspended from going into operation and the council shall reconsider the ordinance. If the ordinance is not entirely repealed, the council shall submit the ordinance to the vote of the electors of the city~~, either at a general election or at a special municipal election held in conjunction with a regular or primary election~~ *in an election conducted in accordance with [sections 6 through 10]*. The ordinance may not go into effect or become operative unless a majority of the electors voting on the ordinance vote in favor of its adoption."

Section 66. Section 7-3-4223, MCA, is amended to read:

"7-3-4223. Granting of franchises — *election required.* A franchise or right to occupy or use the streets, highways, bridges, or public places in a city may not be granted, renewed, or extended except by ordinance. A franchise or grant for interurban or street railways, gasworks or waterworks, electric light or power plants, heating plants, telegraph or telephone systems, or other public service utilities or renewal or extension of the franchise or grant within the city must be authorized or approved by a majority of the electors voting on the issue at ~~a general election or a special election held in conjunction with a regular or primary election as provided in 7-5-4321 and 7-5-4322~~ *an election conducted in accordance with [sections 6 through 10]*."

Section 67. Section 7-3-4305, MCA, is amended to read:

"7-3-4305. Petition to organize under commission-manager form — election required. (1) Upon the filing of a petition with the city or town council, signed by ~~not less than~~ *at least* 15% of the qualified electors of the municipality registered for the last general municipal election, proposing that the question of reorganization under this part and part 44 be submitted to the qualified electors of the municipality, the city or town council shall order ~~a special~~ *an* election to be held in ~~conjunction with a regular or primary election~~ *accordance with [sections 6 through 10]*. At the election, the question of reorganization of the municipality under the provisions of this part and part 44 must be submitted to the qualified electors of the municipality.

(2) The order of the city or town council must specify the time when the election will be held *pursuant to [section 9]*."

Section 68. Section 7-3-4307, MCA, is amended to read:

"7-3-4307. Form of ballot. At ~~such~~ *an* election *under 7-3-4305*, the ballots to be used ~~shall~~ *must* be ~~printed on plain white paper and shall be~~ headed ~~"Special election~~ *"Election* for the purpose of submitting to the qualified electors of the (city, town) of (name of city or town) under chapter 152 of the acts of the fifteenth legislative assembly" and ~~shall~~ *must* be substantially in the following form:

☐ FOR reorganization of the (city, town) of (name of city or town) under chapter 152 of the acts of the fifteenth legislative assembly.

☐ AGAINST reorganization of the (city, town) of (name of city or town) under chapter 152 of the acts of the fifteenth legislative assembly."

Section 69. Section 7-3-4309, MCA, is amended to read:

"7-3-4309. Effect of vote on question of organization. (1) If ~~such~~ *the* proposition is adopted, the mayor shall transmit to the governor, to the secretary of state, and to the county clerk and recorder each a certificate stating that ~~such~~ *the* proposition was adopted.

(2) If ~~such~~ *the* proposition ~~shall not be adopted at such special election~~ *failed*, ~~such~~ *the* proposition ~~shall~~ *may* not again be submitted to the electors ~~of such municipality~~ within a period of 2 years ~~from~~ *after* the date of the last submission."

Section 70. Section 7-3-4310, MCA, is amended to read:

"7-3-4310. ~~Special election~~ *Election* for municipal officers *after reorganization.* (1) If the majority of the votes cast at the election are in favor of reorganization, the city or town council shall hold a meeting within 1 week after the election and order ~~a special~~ *an* election to be held in ~~conjunction with a regular or primary election~~ *accordance with [sections 6 through 10]* for the purpose of electing the number of commissioners to which the municipality is entitled. This order must specify the time of holding the election*, which must be in accordance with [section 9]*. ~~The mayor shall issue a proclamation setting forth the purpose for which the special election is held and the day of holding the election. The proclamation must be published for 10 successive days in each daily newspaper published in the municipality if there is a daily newspaper or for 2 successive weeks in each weekly newspaper published in the municipality.~~ ~~A~~ *For the first election of officers, a primary election may not be held. The term of office for officers initially elected under this subsection expires after subsequent officers are elected pursuant to subsection (2).*

(2) Each subsequent election of officers must involve a primary election and a general election conducted in accordance with Title 13. The primary election must be held on the date specified in 13-1-107. The general election must be held on the date established in 13-1-104.

(3) In addition to the notice required under 13-1-108, a copy of the proclamation must ~~also~~ be posted at each voting place ~~within~~ *in* the municipality and in five of the most public places in the municipality.

~~(2) The election must be conducted, the vote must be canvassed, and the result must be declared in the same manner as provided by law for other municipal elections.~~

~~(3) The provisions of 7-3-4341 are to be followed in the special election, except that the date of the election must be in conjunction with a regular or primary election held before the special election.~~"

Section 71. Section 7-3-4311, MCA, is amended to read:

"7-3-4311. Procedure for multimunicipality organization — *petition* — *election* — *elector qualifications.* (1) Whenever the inhabitants of any community or group of communities in any county, whether separately incorporated in whole or in part or unincorporated, desire to be organized into or annexed to an incorporated city or town under the provisions of this part and part 44, the board of county commissioners of the county may or, ~~upon the presentation of~~ *if presented* a petition signed by ~~not less than~~ *at least* 25% of the qualified electors in the community or group of communities, shall issue a proclamation ordering ~~a special~~ *an* election to be held in ~~conjunction with a regular or primary election~~ *accordance with [sections 6 through 10]*.

(2) At this election, the question of the organization of the community or group of communities as a municipality under the provisions of this part and

part 44 must be submitted to the qualified electors within the proposed municipal district. The proclamation must specify the time when and the places where the election will be held and must define the boundaries of the proposed municipal district, which must include all communities, cities, and any additional adjacent territory that, in the judgment of the board of county commissioners, provides for future urban growth.

(3) If a majority of the ~~legal voters~~ *qualified electors* at the election vote in favor of the organization of the municipal district or in favor of annexation to an incorporated city or town, then the board of county commissioners shall declare the result of the election ~~and~~.

(4) The commissioners shall *also* give notice ~~for 30 days in a newspaper published within the proposed municipal district or, if a newspaper is not published in the proposed district, by posting notices in six public places within the limits of the district of the time and place or places of holding the~~ *as required in 13-1-108 for the* first election for commissioners of the municipal district under this ~~law~~ *section*.

(5) ~~At the election, all electors~~ *The election for commissioners must be conducted in accordance with [sections 6 through 10]. Persons* qualified ~~by the general election laws of the state~~ *pursuant to 13-1-111 and* who have resided within the limits of the municipal district for 6 months are qualified electors. ~~The board of county commissioners shall appoint judges and clerks of election and canvass and declare the result of the election. The election must be held in conjunction with a regular or primary election and must be conducted in the manner prescribed by law for the election of county officers.~~

(6) The commissioners elected must qualify in the manner prescribed by law for county officers."

Section 72. Section 7-3-4316, MCA, is amended to read:

"7-3-4316. Term of office for commissioners. (1) The commissioners elected at the first election shall qualify and their terms of office ~~shall~~ *must* begin on the first Monday after their election. The terms of office of the mayor and city council members in a municipal commission-manager city or town *who are* in office at the beginning of the ~~term~~ *terms* of office of the commissioners first elected under the provisions of part 44 and this part terminate, and the terms of office of all *of* their appointed officers and of all of the employees of the city or town terminate, as ~~soon as the commissioners shall~~ *stated* by resolution ~~declare~~ *of the commission*.

(2) All commissioners shall serve for a term of 4 years and until their successors are elected and have qualified, except that at the first election the two candidates having the highest number of votes shall hold office for a period of 4 years less the time elapsed since December 31 of the preceding odd-numbered year. The terms of office of all other candidates expire on December 31 in any odd-numbered year following the ~~special~~ election provided for in this part at which the first commissioners are elected."

Section 73. Section 7-3-4319, MCA, is amended to read:

"7-3-4319. Designation of mayor. (1) The mayor is ~~that~~ *the* member of the commission who, at the ~~regular~~ *general* municipal election at which the commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them must be chosen mayor by the remaining members of the commission.

(2) If a vacancy in the office of the mayor is caused by the expiration of the term of office, the holdover commissioner ~~having~~ *who* received the highest

number of votes is the mayor. If there is a vacancy in the office of the mayor for any other cause, the remaining members of the commission shall choose the mayor's successor for the unexpired term from their own number by lot.

(3) If the commissioner who is acting as mayor is recalled, the remaining members of the commission shall select one of their number to serve as mayor for the unexpired term. If all *of* the commissioners are recalled, the person receiving the highest number of votes at the election held to determine their successors is the mayor."

Section 74. Section 7-3-4322, MCA, is amended to read:

"7-3-4322. Meetings of commission. (1) At 10 a.m. on the first Monday after January 1 following a ~~regular~~ *general* municipal election, the commission shall meet at the usual place for holding the meetings of the legislative body of the municipality, at which time the newly elected commissioners shall assume the duties of their office. Thereafter, the commissioners shall meet at times that may be prescribed by ordinance or resolution, except that in municipalities having less than 5,000 inhabitants, they shall meet regularly at least once and not more than four times per month, and in municipalities having more than 5,000 inhabitants, they shall meet not less than once every 2 weeks.

(2) Absence from five consecutive regular meetings vacates the seat of a member unless the absence is authorized by the commission.

(3) The commissioner acting as mayor, any two members of the commission, or the city manager may call special meetings of the commission with written notice of at least 12 hours to each member of the commission, served personally on each member or left at the member's usual place of residence."

Section 75. Section 7-3-4462, MCA, is amended to read:

"7-3-4462. Office of city judge. (1) In each municipality having a commission-manager form of government, a city judge ~~shall~~ *must* be elected every 4 years in a nonpartisan election held in conjunction with the ~~regularly scheduled~~ *general* municipal election. The city judge shall hold office for a term of 4 years.

(2) The qualifications to hold the office of city judge ~~shall~~ *must* be set by ordinance by the commission. The ordinance ~~shall~~ *must* be consistent with any rules adopted by the Montana supreme court on city judge qualifications.

(3) If a vacancy occurs in the office of city judge, the commission shall appoint a qualified individual to serve for the remainder of the term."

Section 76. Section 7-5-131, MCA, is amended to read:

"7-5-131. Right of initiative and referendum. (1) The powers of initiative and referendum are reserved to the electors of each local government. Resolutions and ordinances within the legislative jurisdiction and power of the governing body of the local government, except those set out in subsection (2), may be proposed or amended and prior resolutions and ordinances may be repealed in the manner provided in 7-5-132 through *7-5-135 and* 7-5-137.

(2) The powers of initiative do not extend to the following:

(a) the annual budget;

(b) bond proceedings, except for ordinances authorizing bonds;

(c) the establishment and collection of charges pledged for the payment of principal and interest on bonds;

(d) the levy of special assessments pledged for the payment of principal and interest on bonds; or

(e) the prioritization of the enforcement of any state law by a unit of local government."

Section 77. Section 7-5-132, MCA, is amended to read:

"7-5-132. Procedure ~~to exercise right of~~ *for* initiative or referendum *election.* (1) The electors *of a local government* may ~~initiate and~~*, by petition, request an election on whether to enact, repeal, or* amend ~~ordinances and require submission of existing ordinances to a vote of the people by petition~~ *an ordinance. The form of the petition must be approved by the county election administrator. A petition signed by at least 15% of the local government's qualified electors is sufficient to require an election*.

(2) (a) If an approved petition containing sufficient signatures is filed prior to the ordinance's effective date or within 60 days after the passage of the ordinance, whichever is later, a petition requesting ~~a referendum on~~ *an election on whether to amend or repeal* the ordinance delays the ordinance's effective date until the ordinance is ratified by the electors.

(b) ~~A~~ *If an approved* petition ~~requesting a referendum on an emergency ordinance~~ *containing sufficient signatures is* filed within 60 days ~~of~~ *after* the effective date of ~~the~~ *an emergency* ordinance*,* ~~suspends~~ the *emergency* ordinance *is suspended* until *it is* ratified by the electors.

~~(2)~~*(3)* The governing body may refer *an* existing or proposed ~~ordinances~~ *ordinance* to a vote of the people by resolution.

~~(3)~~*(4)* A petition or resolution for ~~initiative or referendum~~ *an election* must:

(a) embrace only a single comprehensive subject;

(b) set out fully the ordinance sought ~~by petitioners or, in the case of an amendment, set out fully~~, the ordinance ~~sought~~ to be amended and the proposed amendment*,* or~~, in the case of referendum, set out~~ the ordinance ~~sought~~ to be repealed;

(c) be in the form prescribed in Title 13, chapter 27, except as specifically provided in this part; *and*

~~(d) contain the signatures of 15% of the registered electors of the local government; and~~

~~(e)~~*(d)* contain transition provisions if the measure changes terms of office or forms of government.

(5) An election held pursuant to this section must be conducted in accordance with [sections 6 through 10], except that if the petition asks for a special election, specifies an election date that complies with [section 9], and is signed by at least 25% of the qualified electors, a special election must be held on the date specified in the petition.

(6) If a majority of those voting on the question approve the proposal, it becomes effective when the election results are officially declared, unless otherwise stated in the proposal."

Section 78. Section 7-5-4321, MCA, is amended to read:

"7-5-4321. Grant of exclusive franchise — election required. (1) The council may not grant an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident to the law.

(2) An exclusive franchise for any purpose, except contracts for solid waste management systems as defined in 75-10-103, which may not exceed 10 years, may not be granted by any city or town or by the mayor or city council to any person, association, or corporation without first submitting the application for

an exclusive franchise to the electors of the city at ~~a regular or primary~~ *an* election.

(3) The election must be conducted in accordance with 7-5-4322 and [sections 6 through 10].

(4) If the majority of the votes cast at the election are "For granting franchise", the mayor and city council shall grant the franchise by the passage and approval of a proper ordinance."

Section 79. Section 7-5-4322, MCA, is amended to read:

"7-5-4322. Election ~~on question of granting franchise~~ *notice — ballot form.* (1) Notice of the election must be ~~published as~~ provided in *accordance with* 13-1-108. The notice must state the time and place of holding the election, the character of any franchise applied for, and the valuable consideration, if there is any, to be derived by the city.

(2) At the election, the ballots must contain the words "For granting franchise" and "Against granting franchise"~~, and in voting, the elector shall make a cross (X) opposite the answer that the elector intends to vote for. The election must be conducted and canvassed and the return made in the same manner as other city or town elections~~.

~~(3) If the majority of the votes cast at the election are "For granting franchise", the mayor and city council shall grant the franchise by the passage and approval of a proper ordinance.~~"

Section 80. Section 7-6-1501, MCA, is amended to read:

"7-6-1501. ~~Resort tax — definitions~~ *Definitions.* As used in ~~7-6-1501 through 7-6-1509~~ *this part*, the following definitions apply:

(1) *"Board of directors" means the board of directors of the resort area district.*

(2) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

~~(2)~~*(3)* "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

~~(3)~~*(4)* "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(5) "Qualified elector" means a person who is qualified to vote under 13-1-111 and is a resident of a resort community, resort area, or proposed or established resort area district.

~~(4)~~*(6)* "Resort area" means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has a population of less than 2,500 according to the most recent federal census;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508.

(7) "Resort area district" means a district created under 7-6-1531 through 7-6-1550 that has been established as a resort area under 7-6-1508.

~~(5)~~*(8)* "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 5,500 according to the most recent federal census;

(c) derives the primary portion of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and

(d) has been designated by the department of commerce as a resort community."

Section 81. Section 7-6-1502, MCA, is amended to read:

"7-6-1502. Resort community taxing authority — specific delegation. As required by 7-1-112, 7-6-1501 through 7-6-1507 specifically delegate to the *qualified* electors of each respective resort community the power to authorize their municipality to impose a resort tax within the corporate boundary of the municipality as provided in 7-6-1501 through 7-6-1507."

Section 82. Section 7-6-1504, MCA, is amended to read:

"7-6-1504. Resort tax — election required — procedure — notice. (1) A resort community or area may not impose or, except as provided in 7-6-1505, amend or repeal a resort tax unless the resort tax question has been ~~submitted to the electorate of the resort community or area and~~ approved by a majority of the *qualified* electors voting on the question.

(2) The resort tax question may be presented to the *qualified* electors of:

(a) a resort community by a petition of the electors as provided by ~~7-1-4130~~ *7-5-131*, 7-5-132, ~~and~~ 7-5-134 ~~through~~*, 7-5-135, and* 7-5-137 or by a resolution of the governing body of the resort community; or

(b) a resort area by a resolution of the board of county commissioners, following receipt of a petition of electors as provided in 7-6-1508.

(3) If a resort area is in more than one county, the resort tax question must be presented to and approved by the *qualified* electors in the resort area of each county.

(4) The petition or resolution referring the taxing question must state:

(a) the rate of the resort tax;

(b) the duration of the resort tax;

(c) the date when the tax becomes effective, which date may not be earlier than 35 days after the election; and

(d) the purposes that may be funded by the resort tax revenue.

(5) ~~Upon~~ *On* receipt of an adequate petition, the governing body ~~may:~~

~~(a) call a special election on the resort tax question; or~~

~~(b) have the resort tax question placed on the ballot at the next regularly scheduled election~~ *shall hold an election in accordance with [sections 1 through 5].*

(6) ~~(a) Before the resort tax question is submitted to the electorate of a resort community or area, the governing body of the resort community or the board of county commissioners in the county in which the resort area is located shall publish notice of the goods and services subject to the resort tax, in a newspaper that meets the qualifications of subsection (6)(b). The notice must be published twice, with at least 6 days separating publications. The first publication must be no more than 30 days prior to the election and the last no less than 3 days prior to~~

~~the election~~ *Notice of the election must be accomplished as provided in 13-1-108 and include the information listed in subsection (4) of this section*.

~~(b) The newspaper must be:~~

~~(i) of general, paid circulation with a second-class mailing permit;~~

~~(ii) published at least once a week; and~~

~~(iii) published in the county where the election will take place.~~

(7) The question of the imposition of a resort tax may not be placed before the *qualified* electors more than once in any fiscal year."

Section 83. Section 7-6-1505, MCA, is amended to read:

"7-6-1505. Resort tax administration. (1) In this section, "governing body" means:

(a) the governing body of a resort community;

(b) if the resort tax has been approved by the *qualified* electors of a resort area, the board of county commissioners; or

(c) if the *qualified* electors of the resort area establish a resort area district, the district board of directors.

(2) Not less than 30 days prior to the date that the resort tax becomes effective, the governing body shall enact an administrative ordinance governing the collection and reporting of the resort taxes. This administrative ordinance may be amended at any time as may be necessary to effectively administer the resort tax.

(3) The administrative ordinance must specify:

(a) the times that taxes collected by businesses are to be remitted to the governing body;

(b) the office, officer, or employee of the governing body responsible for receiving and accounting for the resort tax receipts;

(c) the office, officer, or employee of the governing body responsible for enforcing the collection of resort taxes and the methods and procedures to be used in enforcing the collection of resort taxes due; and

(d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include:

(i) criminal penalties not to exceed a fine of $1,000 or 6 months' imprisonment, or both;

(ii) civil penalties if the governing body prevails in a suit for the collection of resort taxes, not to exceed 50% of the resort taxes found due plus the costs and attorney fees incurred by the governing body in the action;

(iii) revocation of a county or municipal business license held by the offender; and

(iv) any other penalties that may be applicable for violation of an ordinance.

(4) The administrative ordinance may include:

(a) further clarification and specificity in the categories of goods and services that are subject to the resort tax consistent with 7-6-1503;

(b) authorization for business administration and prepayment discounts. The discount authorization may allow each vendor and commercial establishment to:

(i) withhold up to 5% of the resort taxes collected to defray their costs for the administration of the tax collection; or

(ii) receive a refund of up to 5% of the resort tax payment received from them by the governing body 10 days prior to the collection due date established by the administrative ordinance.

(c) other administrative details necessary for the efficient and effective administration of the tax."

Section 84. Section 7-6-1506, MCA, is amended to read:

"7-6-1506. Use of resort community tax revenue — bond issue — pledge. (1) Unless otherwise restricted by the voter-approved tax authorization provided for in 7-6-1504, a resort community or a resort area district ~~as defined in 7-6-1531~~ may appropriate and expend revenue derived from a resort tax for any activity, undertaking, or administrative service that the municipality or resort area district is authorized by law to perform, including costs resulting from the imposition of the tax.

(2) A resort community may issue bonds to provide, install, or construct any of the public facilities, improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102.

(3) Bonds issued under this section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants of the municipality or resort area district as the governing body considers appropriate. The bonds may be sold at a discount at a public or private sale.

(4) A resort community may pledge for repayment of bonds issued under this section the revenue derived from a resort tax, special assessments levied for and revenue collected from the facilities, improvements, or undertakings for which the bonds are issued, and any other source of revenue authorized by the legislature to be imposed or collected by the resort community. The bonds do not constitute debt for purposes of any statutory debt limitation, provided that in the resolution authorizing the issuance of the bonds, the municipality determines that the resort tax revenue, special assessments levied for and revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal and interest on the bonds when due.

(5) Bonds may not be issued pledging proceeds of the resort tax for repayment unless the municipality in the resolution authorizing issuance of the bonds determines that in any fiscal year the annual revenue expected to be derived from the resort tax, less the amount required to reduce property taxes pursuant to 7-6-1507, equals at least 125% of the average amount of the principal and interest payable from the resort tax revenue on the bonds and any other outstanding bonds payable from the resort tax except any bonds to be refunded upon the issuance of the proposed bonds."

Section 85. Section 7-6-1508, MCA, is amended to read:

"7-6-1508. Establishment of ~~a~~ resort area — taxing authority — approval by *qualified* electorate. (1) The establishment of a resort area for the purpose of imposing a resort tax may be initiated by a written petition to the board of county commissioners of the county in which the area is located. The petition must contain a description of the proposed resort area and must be signed by at least 15% of the *qualified* electors ~~residing in~~ *of* the proposed *resort* area.

(2) The petition must include a proposal to impose a resort tax within the proposed resort area, including the rate, duration, effective date, and purpose of the tax as provided in 7-6-1504.

(3) Upon receiving a petition to establish a resort area, the board of county commissioners shall present the question to the *qualified* electors ~~residing in~~ *of* the proposed resort area as provided in 7-6-1504."

Section 86. Section 7-6-1509, MCA, is amended to read:

"7-6-1509. Use of resort area tax. (1) (a) Except as provided in subsection (1)(b) or unless otherwise provided by the resolution approved by the *qualified* electors under 7-6-1504, the board of county commissioners shall appropriate and spend revenue derived from a resort area tax for the purpose stated in the resolution.

(b) If the *qualified* electors of a resort area have established a resort area district, the district board of directors shall appropriate and spend revenue derived from a resort area tax for the purpose stated in the resolution.

(2) If the *qualified* electors of a resort area have not established a resort area district, the resort area shall reimburse the board of county commissioners for costs associated with the collection, administration, and litigation of the resort area tax."

Section 87. Section 7-6-1532, MCA, is amended to read:

"7-6-1532. Resort area district authorized. ~~Electors residing within the boundaries~~ *The qualified electors* of a resort area may create a resort area district by proceeding under the provisions of ~~7-6-1531 through~~ *7-6-1533 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and* 7-6-1550."

Section 88. Section 7-6-1533, MCA, is amended to read:

"7-6-1533. Petition to create resort area district. (1) ~~Electors residing within~~ *The qualified electors of* a resort area may present, at a regular meeting, a petition requesting the establishment of a resort area district to the board of county commissioners of the county in which the proposed resort area district is located. The petition must be signed by at least 10% of the ~~registered voters within~~ *qualified electors of* the resort area.

(2) When the area to be included within the proposed resort area district lies in more than one county, the *qualified* electors ~~within a resort area~~ shall present a petition to the board of county commissioners in each county. Each petition must contain the signatures of at least 10% of the ~~registered voters of the resort area that lies within~~ *qualified electors of* that county.

(3) The petition must include a description or map of the existing resort area boundaries. The petition may not describe proposed resort area district boundaries that are different from the existing resort area boundaries designated pursuant to 7-6-1508."

Section 89. Section 7-6-1535, MCA, is amended to read:

"7-6-1535. Resort area district — hearing on petition. (1) At the hearing for which notification has occurred under ~~7-6-1533~~ *7-6-1534*, the board of county commissioners shall accept comments supporting and opposing the petition. The board of county commissioners may adjourn the hearing from time to time, but the hearing must be completed within 4 weeks of its commencement.

(2) Upon concluding the hearing on the petition, the board of county commissioners shall determine whether the petition complies with the requirements of ~~7-6-1531 through~~ *7-6-1533 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and* 7-6-1550 and enter its determination into the minutes of a regularly scheduled meeting."

Section 90. Section 7-6-1536, MCA, is amended to read:

"7-6-1536. Resort area district — election required — notice. (1) Upon a determination that the petition complies with the provisions of ~~7-6-1531 through~~ *7-6-1533 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and* 7-6-1550, the board of county commissioners of each county in which the resort area lies shall ~~give notice of an election to be held in the proposed resort area district for the purpose of determining whether a resort area district should be created. The election must be held in conjunction with a regular or primary election~~ *conduct an election in accordance with [sections 1 through 5]*.

(2) Notice of the election must be made as provided in 13-1-108 and must:

(a) describe the purpose of the proposed resort area district; and

(b) state the name of the proposed resort area district, which must include the words "resort area district"."

Section 91. Section 7-6-1541, MCA, is amended to read:

"7-6-1541. General powers of resort area district. (1) A resort area district ~~created under 7-6-1531 through 7-6-1550~~ may:

(a) have perpetual succession;

(b) sue and be sued in any court of competent jurisdiction;

(c) acquire by any legal means real and personal property necessary to the full exercise of its powers;

(d) make contracts, employ labor, and do all acts necessary for the full exercise of its powers; and

(e) issue and repay bonds as provided in 7-6-1542.

(2) (a) ~~The~~ *Subject to subsection (2)(b), the* board *of directors* for a resort area district that does not have perpetual succession may submit the question of extension of the term of the resort area district directly to the ~~voters~~ *qualified electors in an election conducted in accordance with [sections 1 through 5]*. If the electorate extends the term of the resort area district, the provisions of this part continue to apply.

(b) The board *of directors* may not submit a question to the ~~voters~~ *qualified electors* to extend the term of a resort area district until the expiration of at least ~~half~~ *one-half of* the existing term of the resort tax, as provided for in 7-6-1504. If a vote to extend the term fails, successive votes to extend the term may be taken no more than once each year.

(3) The board *of directors* shall exercise the powers described in ~~7-6-1531 through~~ *7-6-1533 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and* 7-6-1550."

Section 92. Section 7-6-1542, MCA, is amended to read:

"7-6-1542. Resort area district board powers related to ~~administration and expenditure of~~ resort tax revenue — ~~authorization to issue~~ bonds — *election* — restrictions. (1) The board *of directors* of a resort area district ~~created under 7-6-1531 through 7-6-1550~~ may:

(a) appropriate and expend revenue from a resort tax for any activity, undertaking, or administrative service authorized in the resolution creating a resort area and adopting a resort tax;

(b) adopt administrative ordinances necessary to aid in the collection or reporting of resort taxes and in the expenditure of resort tax revenue; and

(c) except as provided in subsection (2), if approved by four of the five board members, issue bonds to provide, install, or construct any of the public facilities,

improvements, or capital projects authorized as provided in subsection (1)(a) and pledge for repayment of the bonds the revenue derived from the resort tax.

(2) A resort area district may not issue bonds to construct any single-purpose public facility, improvement, or capital project in an amount exceeding $500,000 without the approval of a majority of the qualified electors ~~residing within the boundaries of the resort area district voting at a special election at a time to be determined by the board. For the purpose of this subsection, the board may authorize a special election by majority vote~~ *voting at an election conducted in accordance with [sections 1 through 5]*.

(3) The provisions of 7-6-1506(3) apply to the issuance of bonds by a resort area district, and the board *of directors* shall conclude that the projected useful life of the public facilities, improvements, or capital projects will be greater than the term of the bonds that were issued to construct the public facilities, improvements, or capital projects.

(4) Resort tax revenue that is pledged by a resort area district to the repayment of bonds must be sufficient to pay the principal and interest on the bonds in each year when the principal and interest is due. Bonds do not constitute debt for the purpose of any statutory debt limitation. A resort area district may not issue bonds pledging proceeds of the resort tax for repayment unless the board *of directors* in the resolution authorizing issuance of the bonds determines that the annual principal and interest payment on the bonds issued will not cumulatively exceed 25% of the average of resort tax revenue received by the district during the preceding 5 years. Bonds may not be issued for a term longer than the remaining duration of the resort area district."

Section 93. Section 7-6-1543, MCA, is amended to read:

"7-6-1543. Resort area district ~~to be~~ governed by board — composition — qualifications — term of office. (1) The board *of directors* is the governing body of the resort area district and is composed of five members, to be elected as provided in 7-6-1544.

(2) To qualify for the board *of directors*, a person must be a resident of the resort area district.

(3) Directors shall serve for a term of 4 years from the date of their election, except, of the directors elected at the first ~~regular~~ election, three directors shall serve for a term of 2 years and two shall serve for a term of 4 years.

(4) At the first meeting of the board, the directors shall determine by lot which of them shall serve the terms *of* less than 4 years. Each succeeding term is 4 years."

Section 94. Section 7-6-1544, MCA, is amended to read:

"7-6-1544. Resort area district board — election — ~~term~~. (1) The first election of the board *of directors and each succeeding election* must be held ~~at the next regular, primary, or school election immediately succeeding the creation of the resort area district~~ *in accordance with [sections 1 through 5]*. ~~Each succeeding election must be held every 2 years to coincide with the election for local government officials as provided in 13-1-104(2)~~.

(2) A ~~petition of nomination, signed by at least five electors from within the resort area district,~~ *declaration of candidacy for the board of directors* may be filed with the election administrator ~~in any~~ *of the* county ~~containing a portion of~~ *conducting the election for* the resort area district. A ~~nominating petition~~ *declaration of candidacy* must be filed ~~between 135 days and 75 days before the election~~ *within the time period specified in [section 2]*.

(3) (a) If the number of candidates filing a petition is insufficient to complete board membership, the existing board shall appoint as many members as are needed to complete the five-member board.

(b) An appointee to the board *of directors* must be elected by a majority of those voting at ~~the~~ *an* election conducted ~~under 13-1-104 immediately following the appointment~~ *on the date established pursuant to [section 4(1)(b)] during the next year following the appointment*. If an appointee does not receive a majority of votes cast in the election, the appointee's term expires, and the board *of directors* shall initiate the process described in this subsection (3).

~~(c) The term of a resort area district board member appointed and subsequently elected under the provisions of this subsection (3) is 4 years.~~"

Section 95. Section 7-6-1546, MCA, is amended to read:

"7-6-1546. Resort area district board — vacancy. (1) If a vacancy on the board *of directors* occurs by death, resignation, or removal from the resort area district, the remaining directors shall appoint a director to fill the vacancy. The term of the appointment coincides with the term that became vacant.

(2) An appointee to the board *of directors* must be elected by a majority of those voting at ~~the~~ *an* election conducted ~~under 13-1-104 immediately~~ *in accordance with [sections 1 through 5] as soon as possible* following the appointment. If an appointee does not receive a majority of the votes cast in the election, the appointee's term expires and the board shall initiate the process to fill the vacancy as provided in subsection (1)."

Section 96. Section 7-6-1547, MCA, is amended to read:

"7-6-1547. Resort area district board — meetings. (1) The board *of directors* shall meet at a regularly scheduled time and place. The board *of directors* shall provide public notice of any change in the time and place of the board meetings.

(2) All board *of directors* meetings are open to the public unless, under the terms of Article II, section 9, of the Montana constitution or 2-3-203, the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure.

(3) A majority of the board *of directors* constitutes a quorum for the transaction of business.

(4) The board *of directors* may act only by ordinance or resolution."

Section 97. Section 7-6-1548, MCA, is amended to read:

"7-6-1548. Referendum to dissolve resort area district. (1) ~~Upon~~ *On* receipt of a petition to dissolve the resort area district, signed by more than 50% of the *qualified* electors of the resort area district, the board *of directors* shall set a date for a public hearing on dissolution of the resort area district. The hearing date ~~may not~~ *must* be ~~fewer than~~ *at least* 45 days ~~or~~ *and no* more than 60 days after the date on which the board schedules the date of the hearing. A notice of the public hearing on dissolution must be published as provided in 7-1-2121. The published notice must include notice to creditors of the resort area district to present claims owed by the resort area district to the board *of directors* prior to the date set for the dissolution hearing.

(2) After the hearing, the board *of directors* shall submit the question of the resort area district's dissolution to a vote of the *qualified* electors *voting in an election conducted in accordance with [sections 1 through 5]*."

Section 98. Section 7-6-1551, MCA, is amended to read:

"7-6-1551. Annexation of property into resort area district — *election.* (1) Property may be annexed into a resort area district as provided in this section.

(2) The resort area district board *of directors* may recommend that property contiguous to an existing resort area district be annexed into the resort area district.

(3) If the board *of directors* recommends annexation, the board shall submit its recommendation to the board of county commissioners, along with a description or map of the existing district and a description or map of the area proposed to be annexed.

(4) (a) ~~Upon~~ *On* receipt of the resort area district board's recommendation, the board of county commissioners shall submit the description or map of the existing district and the description or map of the area proposed to be annexed into the resort area district to the department of commerce, along with a review fee of $250 and any other information required by the department as necessary to determine whether the existing district with the proposed annexation qualifies as a resort area under 7-6-1501.

(b) The department of commerce shall determine whether the existing district with the proposed annexation qualifies as a resort area under 7-6-1501 and shall notify the board of county commissioners of its determination. If the existing district with the proposed annexation does not qualify as a resort area, the board of county commissioners may take no further action on the proposed annexation for a period of at least 1 year. If the existing district with the proposed annexation does qualify as a resort area, the board of county commissioners shall give notice of an election to be held in the area proposed to be annexed.

(5) The board of county commissioners shall give notice *as required in 13-1-108* of the election to be held in the area proposed to be annexed. The election must be held ~~in conjunction with a regular or primary election and must be conducted as provided in 7-6-1537~~ *in accordance with [sections 1 through 5]*.

~~(6) A person is not entitled to vote at an election on the proposed annexation unless the person possesses all of the qualifications required of electors under the general election laws of this state and is a resident of the area proposed to be annexed.~~

~~(7)~~*(6)* If a majority of the votes cast *by qualified electors* on the question of annexation of the property into the resort area district are in favor of the annexation, the board of county commissioners shall enter into its minutes an order, by resolution, annexing the property into the district and shall cause to be created a map of the district that includes the annexed area. Immediately following the adoption of the resolution, the board of county commissioners shall file with the secretary of state and the county clerk and recorder a copy of the resolution and the map.

~~(8)~~*(7)* The secretary of state shall issue a certificate of incorporation as provided in 7-6-1540.

~~(9)~~*(8)* The resort area district board *of directors* that governed the district before annexation shall continue to operate, and the members shall continue to serve the members' terms. Upon occurrence of a vacancy or the expiration of a member's term, residents of the area that has been annexed are eligible for election or appointment to the board *of directors* under the provisions of 7-6-1543*,* ~~through~~ *7-6-1544, and* 7-6-1546.

~~(10)~~*(9)* If the area proposed to be annexed includes property in more than one county, the ~~boards~~ *board* of county commissioners of each county shall comply with the provisions of this section."

Section 99. Section 7-7-2223, MCA, is amended to read:

"7-7-2223. Election required for issuance of certain bonds. (1) County bonds for any purpose other than those enumerated in 7-7-2221 and 7-7-2311 may not be issued unless authorized *by registered electors of the county voting* at ~~a special~~ *an* election ~~that is conducted by mail ballot, as provided in Title 13, chapter 19, at a special election held in conjunction with a regular or primary election, or at a general election at which the question of issuing the bonds is submitted to the registered electors of the county and approved as provided in 7-7-2237~~ *conducted in accordance with [sections 6 through 10]*.

(2) A bond election may not be called unless the board of county commissioners:

(a) initiates and unanimously adopts a resolution in accordance with the provisions of 7-7-2227(2); or

(b) receives a petition, delivered and certified by the election administrator, asking that the election be held and the question be submitted. The petition must be signed by at least 20% of the registered electors of the county."

Section 100. Section 7-7-2227, MCA, is amended to read:

"7-7-2227. Examination of petition — resolution calling for election. (1) Upon delivery of the certified petition, the board shall carefully examine the petition and make any other investigation that it may consider necessary. If it is found that the petition is in proper form, bears the requisite number of signers of qualified petitioners, and is in all other respects sufficient, the board shall pass and adopt a resolution that contains the provisions of subsection (2) plus the essential facts in regard to the petition and its filing and presentation.

(2) The resolution must:

(a) recite the purpose or purposes for which the bonds are proposed to be issued;

(b) fix the exact amount of bonds proposed to be issued for each purpose, which amount may be less than but must not exceed the amount set forth in the petition;

(c) determine the number of years through which the bonds are to be paid, not exceeding the limitations fixed in 7-7-2206; and

(d) make provision for having the question submitted to the registered electors of the county ~~at the next general election or at a special election that is conducted by mail ballot, as provided in Title 13, chapter 19, or that is held in conjunction with a regular or primary election and that the board may call for that purpose~~ *as required in 7-7-2223.*

~~(3) Whenever a board of county commissioners initiates a resolution in accordance with the provisions of 7-7-2223, the resolution must contain the provisions of subsection (2).~~"

Section 101. Section 7-7-2229, MCA, is amended to read:

"7-7-2229. Notice of election. (1) ~~Whether the election is held at the general election, at an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election, separate notice of the election must be given~~ *Notice of a bond election must be in accordance with 13-1-108*.

(2) (a) The notice must state:

(i) the date when the election will be held;

(ii) the amount of bonds proposed to be issued;

(iii) the purpose of the issue;

(iv) the term of years through which the bonds are to be paid; and

(v) other information regarding the holding of the election and the bonds proposed to be issued that the board may consider proper.

(b) If bonds are to be issued for two or more purposes, each purpose and the amount for each purpose must be separately stated.

~~(3) The notice must be published as provided in 13-1-108.~~"

Section 102. Section 7-7-2237, MCA, is amended to read:

"7-7-2237. Percentage of electors required to authorize bond issue. Whenever the question of issuing county bonds for any purpose is submitted to the registered electors of a county ~~at a general election, at an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election~~, the determination of the approval or rejection of the bond proposition is made in the following manner:

(1) determine the total number of electors who were qualified to vote in the bond election;

(2) determine the total number of qualified electors who voted in the bond election from the tally sheet or sheets for the election;

(3) calculate the percentage of qualified electors voting ~~at~~ *in* the bond election by dividing the number determined in subsection (2) by the number determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is 40% or more, the bond proposition is considered approved and adopted if a majority of the votes cast were in favor of the proposition, otherwise it is considered rejected; or

(5) when the calculated percentage in subsection (3) is more than 30% but less than 40%, the bond proposition is considered approved and adopted if 60% or more of the votes cast were in favor of the proposition, otherwise it is considered rejected; or

(6) when the calculated percentage in subsection (3) is 30% or less, the bond proposition is considered rejected."

Section 103. Section 7-7-2404, MCA, is amended to read:

"7-7-2404. Notice of election. Notice of the election~~, clearly stating~~ *must clearly state* the amount to be raised and the object of the loan~~,~~ *and* must be given ~~in all respects in the manner prescribed by law in regard to the submission of questions to the electors of a locality under the general election law~~ *in accordance with 13-1-108*."

Section 104. Section 7-7-2405, MCA, is amended to read:

"7-7-2405. Form of ballots. ~~There must be written or printed on the ballots the~~ *The* words "For the loan" and "Against the loan"~~, and in voting, the elector shall vote for the proposition that the elector prefers by making an X opposite the proposition~~ *must appear on the election ballot*."

Section 105. Section 7-7-2406, MCA, is amended to read:

"7-7-2406. Conduct of election and canvass of results. The election must be held ~~and conducted and the returns must be made in all respects in the manner prescribed by law in regard to the submission of questions to the~~

~~electors of a locality under the general election law~~ *in accordance with [sections 6 through 10]*."

Section 106. Section 7-7-4226, MCA, is amended to read:

"7-7-4226. Resolution to submit question of issuing bonds to voters. (1) When the governing body of any municipality considers it necessary to issue bonds pledging the general credit of the municipality pursuant to a statute of this state, the governing body shall pass and adopt a resolution.

(2) The resolution must:

(a) recite the purpose or purposes for which it is proposed to issue the bonds;

(b) fix the amount of bonds to be issued for each purpose;

(c) determine the number of years through which the bonds are to be paid, not exceeding the limits fixed in 7-7-4205; and

(d) unless the bonds are revenue bonds not pledging the general credit of the municipality, make provisions that are necessary for submitting the question to the registered electors of the city or town at ~~the next general city or town election, at an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election and that the governing body may call for the purpose~~ *an election conducted in accordance with [sections 6 through 10]*.

(3) Whenever the bond issuance is proposed by petition, the governing body shall, before submitting the measure to the electors, pass a resolution containing the information required in this section and setting forth the essential facts in regard to the filing and presentation of the petition."

Section 107. Section 7-7-4227, MCA, is amended to read:

"7-7-4227. Notice of election. (1) ~~Whether the election is held at the general city or town election, at an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election, separate notice of the election must be given~~ *Notice of the election must be provided in accordance with 13-1-108.*

(2) (a) The notice must state:

(i) the date when the election will be held;

(ii) the amount of bonds proposed to be issued;

(iii) the purpose of the bonds;

(iv) the term of years through which the bonds will be paid; and

(v) other information regarding the election and the proposed bonds that the board may consider proper.

(b) If the bonds that are proposed to be issued are for two or more purposes, each purpose and the amount for each purpose must be separately stated.

~~(3) The notice must be published as provided in 13-1-108 and may be posted in each voting precinct in the city or town at least 10 days prior to the date for holding the election.~~"

Section 108. Section 7-7-4235, MCA, is amended to read:

"7-7-4235. Percentage of electors required to authorize issuing of bonds. Whenever the question of issuing bonds for any purpose is submitted to the registered electors of a city or town ~~at a general election, at an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election~~, the

determination of the approval or rejection of the bond proposition is made by a majority of the votes cast on the issue."

Section 109. Section 7-7-4426, MCA, is amended to read:

"7-7-4426. Authorization for undertaking and issuance of bonds. (1) The acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking may be authorized under this part.

(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:

(a) without an election; or

(b) when authorized by a majority of the qualified electors voting upon the question at ~~a special election that is conducted by mail ballot, as provided in Title 13, chapter 19, or that is held in conjunction with a regular or primary election, if the governing body in its sole discretion chooses to submit the question to the electorate~~ *an election conducted in accordance with [sections 6 through 10]*."

Section 110. Section 7-8-4201, MCA, is amended to read:

"7-8-4201. Disposal or lease of municipal property — *election.* (1) Subject to the provisions of subsection (2), the city or town council may sell, dispose of, donate, or lease any property belonging to the city or town.

(2) (a) Except for property described in subsection (3), the lease, donation, or transfer must be made by an ordinance or resolution passed by a two-thirds vote of all ~~the~~ members of the council.

(b) Except for property acquired by tax deed or property described in subsection (3), if the property is held in trust for a specific purpose, the sale or lease must be approved by a majority vote of the electors of the municipality voting at an election called for that purpose. The election must be held ~~in conjunction with a regular or primary election~~ *in accordance with [sections 6 through 10]*.

(3) If a city or town owns property containing a historically significant building or monument, the city or town may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:

(a) requires the property to be preserved in its present or restored state upon any subsequent transfer; and

(b) provides for the reversion of the property to the city or town for noncompliance with conditions attached to the transfer.

(4) This section may not be construed to abrogate the power of the board of park commissioners to lease all lands owned by the city that were acquired for parks within the limitations prescribed by 7-16-4223.

(5) A city or town may donate land or sell the land at a reduced price to a corporation for the purpose of constructing:

(a) a multifamily housing development operated by the corporation for low-income housing;

(b) single-family houses. Upon completion of a house, the corporation shall sell the property to a low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the property becomes subject to taxation.

(c) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue

purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements.

(6) Land that is transferred pursuant to subsection (5) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition."

Section 111. Section 7-10-101, MCA, is amended to read:

"7-10-101. Regional resource authorities — purpose — *definition of qualified elector.* (1) ~~Electors residing within the boundaries of a proposed regional resource authority~~ *Qualified electors* may create or expand an authority by proceeding under the provisions of this chapter.

(2) Regional resource authorities may be created to provide for collaboration and coordination in the conservation of water resources or in the management of water resources for agricultural and recreational uses.

(3) For the purposes of this chapter, a "qualified elector" is a person who is qualified to vote under 13-1-111 and resides within the boundaries of a proposed or established regional resource authority."

Section 112. Section 7-10-102, MCA, is amended to read:

"7-10-102. ~~Authorization~~ *Petition* to create or expand regional resource authorities. (1) A petition requesting the establishment or expansion of a regional resource authority must be signed by at least 10% of the ~~registered~~ *qualified* electors ~~within the boundaries~~ of the territory proposed to be organized into the authority or expansion and must be presented to the board of county commissioners of the county in which the proposed authority or expansion is located.

(2) When the area to be included within the proposed authority or expansion lies in more than one county, the *qualified* electors ~~within~~ *of* the proposed area shall present a petition to the board of county commissioners in each county. Each petition must contain the signatures of at least 10% of the ~~registered~~ *qualified* electors ~~within the boundaries~~ of the proposed authority or expansion that lies within that county.

(3) The petition must include:

(a) a legal description or map of the proposed authority or expansion boundaries. Boundaries must coincide with the boundaries of political subdivisions of the state to the greatest extent possible and may exclude incorporated cities or towns.

(b) the proposed name of the authority;

(c) a statement that there is a need in the interest of the public health, safety, and welfare for an authority to function or expand in the territory described in the petition;

(d) a request that ~~a referendum~~ *an election* be held in the territories included within the proposed boundaries on the question of creating or expanding the authority; and

(e) the structure of the governing body for the authority as provided in 7-10-110.

(4) Land, water, projects, as defined in 7-10-201, or other resources within the exterior boundaries of an Indian reservation may not be included within the boundaries of a regional resource authority without the consent of the governing body of the tribe of the Indian reservation."

Section 113. Section 7-10-104, MCA, is amended to read:

"7-10-104. Regional resource authority or expansion — election required — notice. (1) Upon a determination that the petition complies with the provisions of 7-10-102, the board of county commissioners of each county in which the proposed regional resource authority or expansion lies shall give notice of an election to be held within the boundaries of the proposed authority or expansion for the purpose of determining whether a regional resource authority should be created or expanded. The election must be held ~~in conjunction with a regular or primary election~~ *in accordance with [sections 1 through 5]*.

(2) Notice of the election must be made as provided in 13-1-108 and must:

(a) describe the purpose of the proposed authority or expansion; and

(b) state the name of the proposed authority.

~~(3) The election on the question of creating or expanding a regional resource authority must be conducted as provided by Title 13 with respect to general and school elections.~~

~~(4) If the proposed authority or expansion lies in more than one county, the board of county commissioners whose county contains the largest percentage of the territory of the proposed authority or expansion shall administer the election and canvass the returns.~~"

Section 114. Section 7-10-110, MCA, is amended to read:

"7-10-110. Governing body of regional resource authority — *initial appointment — subsequent election.* (1) The initial members of the local governing body must be appointed by the county commissioners in the county ~~where the election is administered~~ pursuant to 7-10-104~~(4)~~, based on the recommendations of the petitioners.

(2) The commissioners shall appoint members of the governing body to staggered 2-year and 4-year terms.

(3) The appointments under subsection (1) must be made within 30 days after the adoption of the resolution for creation provided for in 7-10-105.

(4) Prior to the expiration of the initial appointments, the governing body shall divide itself into districts from which *subsequent board* members are elected to succeeding terms.

(5) The election of board members must be conducted in accordance with [sections 1 through 5]."

Section 115. Section 7-11-1011, MCA, is amended to read:

"7-11-1011. Referendum — *conduct of* election *on creating special district.* (1) The governing body may order a referendum on the creation of the proposed special district ~~to be submitted to the registered voters who reside within the proposed special district and the individuals qualified to vote pursuant to subsections (5) and (6)~~.

(2) The *resolution ordering the* referendum must state:

(a) the type and maximum rate of the initial proposed assessments or fees that would be imposed, consistent with the requirements of 7-11-1007(2)(e) and 7-11-1024;

(b) the type of activities proposed to be financed, including a general description of the program or improvements;

(c) a description of the areas included in the proposed special district; and

(d) whether the proposed special district would be administered by the governing body or an appointed or elected board.

(3) The ~~referendum must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19~~ *election must be conducted in accordance with [sections 1 through 5].*

(4) The proposition to be submitted to the electorate must read: "Shall the proposition to organize (name of proposed special district) be adopted?"

(5) ~~Except as provided in subsection (6), an~~ *An* individual is entitled to vote on the proposition if the individual:

(a) ~~meets all qualifications required of electors under the general election laws~~ *is a registered elector* of the state; and

(b) is a resident of or owner of taxable real property in the area subject to the proposed special district.

~~(6) An individual who is the owner of real property described in subsection (5)(b) need not possess the qualifications required of an elector in subsection (5)(a) if the individual is qualified to vote in any county of the state and files proof of registration with the election administrator at least 20 days prior to the referendum in which the individual intends to vote.~~

~~(7) The referendum must be conducted, the vote canvassed, and the result declared in the same manner as provided by Title 13 in respect to general elections, so far as it is applicable, except as provided in subsection (3).~~

~~(8)~~*(6)* If the ~~referendum~~ *proposition* is approved, the election administrator of each county shall:

(a) immediately file with the secretary of state a certificate stating that the proposition was adopted;

(b) record the certificate in the office of the clerk and recorder of the county or counties in which the special district is situated; and

(c) notify any municipalities lying within the boundaries of the special district."

Section 116. Section 7-11-1012, MCA, is amended to read:

"7-11-1012. Certificate of establishment. (1) ~~Upon~~ *On* receipt of the certificate referred to in 7-11-1011~~(8)~~*(6)*, the secretary of state shall, within 10 days, issue a certificate reciting that the specified district has been established according to the laws of the state of Montana. A copy of the certificate must be transmitted to and filed with the clerk and recorder of the county or counties in which the district is situated.

(2) When the certificate is issued by the secretary of state, the district named in the certificate is established with all the rights, privileges, and powers set forth in 7-11-1021."

Section 117. Section 7-12-4243, MCA, is amended to read:

"7-12-4243. Procedure to create and maintain supplemental revolving fund — *election required — qualified electors defined.* (1) (a) A supplemental revolving fund may be created by ordinance, subject to the approval of a majority of the qualified electors voting ~~upon the question at a general election or a special election held in conjunction with a regular or primary election~~ *at an election held in accordance with [sections 1 through 5]*.

(b) As used in 7-12-4241 through 7-12-4258, "qualified electors" means registered electors of the municipality.

(2) The supplemental revolving fund must be created and maintained solely from the net revenue of parking meters. The ordinance may pledge to the revolving fund all or any part of the net revenue of parking meters owned, leased, rented, or acquired by the city or town. The ordinance must contain any

provisions concerning the purchase, control, operation, repair, and maintenance of parking meters, including rates to be charged, and the application of the net revenue from the meters and the management and use of the supplemental revolving fund that the council considers necessary."

Section 118. Section 7-13-2201, MCA, is amended to read:

"7-13-2201. Definitions. ~~(1) The word "board" and the words "boards of directors" apply to~~ *Unless the context clearly requires otherwise, as used in this part and part 23, the following definitions apply:*

(1) "Board" or "board of directors" means the board of directors of the district *elected or appointed as provided in 7-13-2231*.

(2) ~~The term "county"~~ *"County"* means one or more counties and includes a city ~~and~~ *within the* county *or counties*.

(3) ~~The word "district", unless otherwise expressed or used, applies to~~ *"District" means* a district formed under the provisions of this part and part 23. A district is a unit of local government separate and distinct from a municipality, but a district may be treated as a municipality when applying for a grant, a loan, or other financial assistance from the state.

(4) ~~The term "municipality", as used in this part and part 23, includes~~ *"Municipality" means a municipality or* a consolidated city and county, city, or town and includes all corporations organized for municipal purposes within ~~the districts~~ *a district*.

(5) "Qualified elector" means a person who meets the criteria under 7-13-2212."

Section 119. Section 7-13-2204, MCA, is amended to read:

"7-13-2204. Petition to create water and/or sewer district. (1) A petition, which may consist of any number of separate instruments, must be presented at a regular meeting of the board of county commissioners of the county in which the proposed district is located, signed by ~~either~~ at least 10% of the ~~registered voters~~ *qualified electors* of the territory included in the proposed district ~~or by the owners of all of the real property in the district~~.

(2) When the territory to be included in the proposed district lies in more than one county, a petition must be presented to the board of county commissioners of each county in which the territory lies. Each of the petitions must be signed by at least 10% of the ~~registered voters of the territory within the county to be included within~~ *qualified electors of* the proposed district ~~or by the owners of all of the real property included in the proposed district~~.

(3) A petition to create a water and/or sewer district must set forth and describe the proposed boundaries of the district and require that the district be incorporated under the provisions of part 23 and this part."

Section 120. Section 7-13-2208, MCA, is amended to read:

"7-13-2208. Decision on petition — election required — exception. (1) On the final hearing provided for in 7-13-2206, the board of county commissioners shall make any changes in the proposed boundaries within the county that are considered advisable and shall define and establish the boundaries. The board of county commissioners may not modify the boundaries in a manner that would exclude from the proposed district any territory that would benefit from the formation of the district. Land that will not, in the judgment of the board of county commissioners, benefit from the district may not be included within the proposed district.

(2) Upon the final determination of the boundaries of the district, the board of county commissioners of each county in which the district lies shall ~~give notice of an election to be held in the proposed district~~ *hold an election* for the purpose of determining whether the district is to be incorporated*, except as provided in subsection (3)*. The election must be ~~held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19~~ *conducted in accordance with [sections 1 through 5]*.

(3) An election is not required if the petition for the creation of the district is signed by the owners of all of the real property in the proposed district. If an election is not held, upon the final determination of the boundaries of the district, the board of county commissioners of each county in which the district lies shall, by an order entered on its minutes, declare the territory enclosed within the proposed boundaries as an organized county water and/or sewer district. The county clerk and recorder shall forward a certified copy of the order to the secretary of state."

Section 121. Section 7-13-2210, MCA, is amended to read:

"7-13-2210. Notice of election. ~~(1) The notice~~ *Notice* of *an* election ~~required by 7-13-2208~~ *on whether a district should be incorporated must be provided in accordance with 13-1-108 and* ~~shall describe~~ *must include a description of* the boundaries established and ~~shall~~ state the proposed name of the proposed ~~incorporation (which~~ *district. The* name ~~shall~~ *must* contain the words ".... County water and/or sewer district"~~)~~.

~~(2) This notice shall be published as provided in 13-1-108.~~"

Section 122. Section 7-13-2211, MCA, is amended to read:

"7-13-2211. ~~Conduct of election on~~ *Ballot* question ~~of~~ *for* creating district. ~~(1) The election on the question of creating the district shall be conducted, the vote canvassed, and the result declared in the same manner as provided by Title 13 in respect to general elections, so far as it is applicable, except as otherwise provided in this part and part 23.~~

~~(2)~~ At the election *on whether a district should be incorporated,* the proposition to be submitted ~~shall~~ *must* be: "Shall the proposition to organize .... County water and/or sewer district under parts 22 and 23 of chapter 13 of Title 7 be adopted?""

Section 123. Section 7-13-2214, MCA, is amended to read:

"7-13-2214. Order creating district upon sufficient favorable vote. (1) If at least 40% of all ~~registered voters residing within the proposed district have voted and if a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district shall be in favor of organizing such county district, said~~ *qualified electors vote in favor of creating a district, the* board of county commissioners of each such county shall, by an order entered on its minutes, declare the territory enclosed within the proposed boundaries duly organized as a county water and/or sewer district under the name ~~theretofore~~ designated.

(2) The election administrator of each such county *in which the district lies* shall immediately ~~cause to be filed~~ *file* with the secretary of state and ~~shall cause to be recorded in~~ the office of the clerk and recorder of the county ~~or each county in which such district is situated~~ a certificate stating that ~~such a~~ *the* proposition was adopted."

Section 124. Section 7-13-2217, MCA, is amended to read:

"7-13-2217. General powers of water and/or sewer district. (1) Any district incorporated as provided in this part and part 23 shall have power to:

(a) have perpetual succession;

(b) sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

(c) adopt a seal and alter it at pleasure;

(d) take by grant, purchase, gift, devise, or lease and to hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers; *and*

(e) make contracts, employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(2) The powers enumerated in this part and part 23 shall, except as otherwise provided in this part and part 23, be exercised by the board of directors ~~provided for in 7-13-2231 and elected and appointed as described in this part and part 23~~."

Section 125. Section 7-13-2222, MCA, is amended to read:

"7-13-2222. ~~Applicability of general election laws~~ *Conduct of elections.* ~~Except as otherwise provided in this part and part 23, the provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable,~~ *The provisions of [sections 1 through 5]* shall govern all district elections *provided for under this part and part 23*."

Section 126. Section 7-13-2225, MCA, is amended to read:

"7-13-2225. Combination of elections. (1) The board of county commissioners in its discretion may combine in one election the election on the formation of the district, the election of directors, the election on incurring bonded indebtedness, and, if applicable, the vote on the proposed monthly salary for members of the board of directors so that the *qualified* electors of the district may vote on all of these matters on the same date and at the same time.

(2) If the elections are combined, the ~~board of county commissioners shall so declare by resolution containing the provisions required by 7-13-2321. If the elections are combined, the~~ notice of the election must contain the names of the candidates, the details concerning the bonded indebtedness *as provided in 7-13-2321*, and, if applicable, the proposed monthly salary for members of the board of directors as provided in 7-13-2273.

(3) Candidates for the office of director ~~shall~~ *must* be nominated in the manner required by 7-13-2241 ~~and 7-13-2246~~."

Section 127. Section 7-13-2231, MCA, is amended to read:

"7-13-2231. ~~District to be governed by~~ *Election or appointment of* board of directors. (1) ~~At an election to be held within a district under the provisions of part 23 and this part and the laws governing general elections not inconsistent with part 23 and this part, the~~ *The* district shall elect a board of directors*, except as provided in subsection (2).* ~~The election must be conducted by mail ballot, as provided in Title 13, chapter 19, or must be held in conjunction with the next regular or primary election.~~

(2) If no *qualified* electors reside in the district at a time when directors of the district are to be elected, the directors ~~to be elected~~ must be appointed in a certificate of appointment ~~presented to the board of directors of the district,~~. *The certificate of appointment must be* signed by the owners of all of the real property

in the district~~,~~ and ~~containing~~ *must contain* the signed acceptance of the appointment by all of the directors.

~~(2)~~*(3)* The board of directors is the governing body of the district.

(4) When an appointed director's term expires, the position must be filled by election, except as provided in subsection (2)."

Section 128. Section 7-13-2234, MCA, is amended to read:

"7-13-2234. Term of office. (1) ~~All directors~~ *A director*, elected or appointed, shall hold office until the election and qualification or *the* appointment and qualification of ~~their successors~~ *the director's successor*.

(2) Except as ~~otherwise~~ provided *in subsection (3)*, the term of office of ~~directors elected under the provisions of this part and part 23 shall~~ *a director must* be 4 years ~~from and after the date of their election~~.

(3) ~~Directors elected at the first regular election under this part and part 23 after July 1, 1979, shall serve as follows:~~

(a) In districts requiring the election of five ~~elected~~ directors, three *of the initial* directors shall serve for a term of 2 years and two *of the initial directors shall serve* for a term of 4 years.

(b) In districts requiring the election of three ~~elected~~ directors, one ~~director~~ *initial director* shall serve for a term of 2 years and two *initial directors shall serve* for a term of 4 years.

(c) At ~~their~~ *the* first meeting *following an initial election or appointment of directors*, the directors shall determine by lot ~~which of them~~ *who* shall serve ~~the~~ *a 2-year* term ~~or terms less than 4 years. Every term thereafter shall be for a period of 4 years~~.

(4) ~~The term of office of directors appointed by the mayor or mayors or by the board of county commissioners shall be 6 years from and after the date of appointment.~~ Directors to be first appointed under the provisions of this part and part 23 ~~shall~~ *must* be appointed within 90 days after the formation of the district.

~~(5) The first regular election for a district shall be held in November of the next odd-numbered year following the formation of the district.~~"

Section 129. Section 7-13-2241, MCA, is amended to read:

"7-13-2241. Filing ~~of petition of nomination~~ *declaration of candidacy*. (1) A ~~petition of nomination, signed by at least five electors of the district for any one candidate, may~~ *declaration of candidacy must* be filed with the election administrator ~~not earlier than 135 days or later than 75 days before the election~~ *within the time period specified in [section 2]*. The election administrator shall endorse on the ~~petition~~ *declaration* the date ~~upon~~ *on* which ~~the petition~~ *it* was presented.

(2) If the district lies in more than one county, the ~~petition for nomination~~ *declaration of candidacy* must be presented to the election administrator ~~whose county contains the largest percentage of the territory of the district~~ *conducting the election pursuant to [section 5]* and the election administrator shall ~~fulfill all duties assigned to election administrators in elections~~ *conduct the elections provided for* under part 23 and this part.

(3) ~~If the petition conforms to this section, the election administrator shall place the name of the petitioner on the ballot as a candidate for director of the district~~ *The county clerk shall retain in the clerk's office for a period of 2 years all declarations of candidacy filed under this section*."

Section 130. Section 7-13-2258, MCA, is amended to read:

"7-13-2258. Effect of failure to qualify for office. If a person elected fails to qualify, the office must be filled as if there were a vacancy in the office as provided in 7-13-2262~~(2)~~*(1)*."

Section 131. Section 7-13-2261, MCA, is amended to read:

"7-13-2261. Recall of officers. Every incumbent of an elective office, whether elected by popular vote for a full term, elected by the board of directors to fill a vacancy, or appointed by a mayor or the board of commissioners for a full term, is subject to recall by the *qualified* electors of any district organized under the provisions of this part and part 23 in accordance with Title 2, chapter 16, part 6."

Section 132. Section 7-13-2262, MCA, is amended to read:

"7-13-2262. ~~Insufficient candidates — vacancies~~ *Vacancies* on board of directors — appointment ~~of entire board~~. ~~(1) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the board of directors shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for the position, the board of directors shall make an appointment to fill the position and the term is the same as if the director were elected.~~

~~(2)~~*(1)* (a) Except as provided in subsections ~~(3)~~ *(2)* and ~~(4)~~ *(3)*, any vacancy in the board of directors, whether the vacant office is elective or appointive, must be filled by *majority vote of* the remaining directors.

(b) A vacancy must be determined in accordance with 7-13-2263.

~~(3)~~*(2)* If there are no directors remaining on the board and no nominees for any director position to be elected, the county commissioners may appoint the number of directors specified in 7-13-2232(1). If the district lies in more than one county, the county commissioners of each county with territory included in the district shall jointly appoint the directors. The county commissioners shall stagger the terms of the directors appointed.

~~(4)~~*(3)* If the boundaries of the district include any municipality or municipalities and a new board must be appointed as provided in subsection ~~(3)~~ *(2)*, the board shall include one additional director to be appointed by the mayor of the municipality for which the additional director is allowed.

~~(5)~~*(4)* Following the appointment of a board in accordance with subsection ~~(3)~~ *(2)*, the directors must be elected as provided in this part."

Section 133. Section 7-13-2271, MCA, is amended to read:

"7-13-2271. Organization of board of directors. (1) ~~The~~ *A new* board of directors shall hold its first meeting on the sixth Monday after the ~~first general~~ election ~~for the election~~ of directors ~~as herein provided~~. It shall choose one of its members president and shall ~~thereupon~~ provide for the time and place of holding its meetings and the manner in which its special meetings may be called.

(2) The board shall establish rules for its proceedings."

Section 134. Section 7-13-2272, MCA, is amended to read:

"7-13-2272. Duties of board president. (1) The president shall sign all contracts on behalf of the district and perform other duties as may be imposed by the board of directors.

(2) The president may propose a monthly salary in excess of the amounts provided in 7-13-2273(2) for the members of the board of directors. The proposed

monthly salary must be approved by the ~~voters~~ *qualified electors* in the district pursuant to 7-13-2273."

Section 135. Section 7-13-2273, MCA, is amended to read:

"7-13-2273. Compensation of members of board — approval by voters of district — *public notice.* (1) Each of the members of the board of directors may receive a monthly salary.

(2) Except as provided in subsection (3), a salary may not exceed the following amounts:

(a) $60 in districts with a population of no more than 500 persons;

(b) $80 in districts with a population that exceeds 500 but is no more than 5,000 persons; and

(c) $100 in districts with a population of more than 5,000 persons.

(3) A salary may exceed the amounts provided under subsection (2) if the salary is in an amount proposed by the president of the board and approved by one of the following methods:

(a) an affirmative vote of the majority of the votes cast by the qualified ~~voters~~ *electors* of the district ~~in an election held either by mail ballot, as provided in Title 13, chapter 19, or in conjunction with a regular or primary election~~; or

(b) an affirmative vote of the majority of the qualified ~~voters~~ *electors* of the district who are present and voting at an annual organizational meeting of the district.

(4) A newly elected member of the board of directors must receive the monthly salary, if any, established for the board member position at the time that the member was elected.

(5) ~~A vote on the question of the proposed salary for members of the board of directors may be held in combination with the elections provided in 7-13-2225 if the vote is conducted by mail ballot or held in conjunction with a regular or primary election.~~

~~(6) (a) Notice of the vote on the proposed monthly salary for the members of the board of directors must be provided to the members of the district~~ *If an election is held pursuant to subsection (3)(a), notice must be as provided in 13-1-108* and ~~state~~ *must include* the following:

~~(i)~~*(a)* the date on which the ~~vote~~ *election* will be held;

~~(ii)~~*(b)* the manner in which the ~~vote~~ *election* will be held;

~~(iii)~~*(c)* the amount of the proposed monthly salary for the members of the board of directors; and

~~(iv)~~*(d)* any other information regarding the ~~vote~~ *election* that may be necessary.

~~(b) The notice must be published as provided in 13-1-108.~~

~~(7) For purposes of this section, "qualified voters of the district" means the voters qualified to vote on the question of the creation of the district as provided in 7-13-2212.~~"

Section 136. Section 7-13-2276, MCA, is amended to read:

"7-13-2276. Right of initiative and referendum. (1) Ordinances may be passed by the *qualified* electors of any district organized under the provisions of this part and part 23 in accordance with the methods provided by the general laws of the state for direct legislation applicable to cities and towns.

(2) Ordinances may be ~~disapproved and thereby vetoed~~ *repealed* by the *qualified* electors of any ~~such~~ district by proceeding in accordance with the

methods provided by the general laws of the state for protesting against legislation by cities and towns."

Section 137. Section 7-13-2321, MCA, is amended to read:

"7-13-2321. Procedure to incur bonded indebtedness. (1) Whenever the board of directors considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund bonded indebtedness as provided for in 7-13-2332 or revenue or special indebtedness incurred pursuant to 7-13-2333, it shall by resolution state the purpose for the proposed debt, the land within the district to be benefited, the amount of debt to be incurred, the maximum term for the proposed bonds before maturity, and the proposition to be submitted to the *qualified* electors.

(2) If no *qualified* electors reside in the district at the time of adoption of the resolution or if the proposition is approved by all of the real property owners in the district to be benefited in a certificate of approval to be presented to the board of directors, the board of directors may incur the bonded indebtedness without an election. The board of directors may by resolution, at times that it considers proper, provide for the form and execution of the bonds and for their issuance."

Section 138. Section 7-13-2323, MCA, is amended to read:

"7-13-2323. Election on question of incurring bonded indebtedness. (1) The board of directors shall fix a date ~~upon~~ *on* which an election is held *in accordance with [section 4]* for the purpose of authorizing the bonded indebtedness to be incurred. ~~Except as provided in subsection (2), the election must be conducted by mail ballot, as provided in Title 13, chapter 19, or must be held in conjunction with a regular or primary election~~.

(2) The board may order ~~up to~~ *as many as* two ~~special~~ elections each year if:

(a) there are no bids within the amount of approved bonds;

(b) there is an emergency;

(c) a directive for a project is received from a government agency; or

(d) it is necessary to take advantage of the construction season."

Section 139. Section 7-13-2324, MCA, is amended to read:

"7-13-2324. Notice of election on incurring bonded indebtedness. (1) The board of directors shall give notice *in accordance with 13-1-108* of the holding of the election.

(2) The notice must:

(a) state the date of the election;

(b) state the hours the polls will be open;

(c) describe the boundaries of voting precincts, which may include only the lands to be benefited as stated in the resolution;

(d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term of years for repayment of the bonds;

(e) reference the resolution authorizing the election and state that it is available for public inspection; and

(f) state any other information that the board considers proper.

~~(2) The notice must be published as provided in 13-1-108.~~"

Section 140. Section 7-13-2328, MCA, is amended to read:

"7-13-2328. Sufficient vote required to issue bonds. (1) (a) When the board of directors canvasses the vote of a bond election, the board shall determine the approval or rejection of the bond proposition as provided in

subsections (1)(b) through (1)(d) after calculating the percentage of qualified electors voting in the bond election in the following manner:

(i) determine the total number of electors of the district who were qualified to vote at the bond election;

(ii) determine the total number of qualified electors who voted at the bond election; *and*

(iii) calculate the percentage of qualified electors voting at the bond election by dividing the amount determined in subsection (1)(a)(ii) by the amount determined in subsection (1)(a)(i).

(b) When the calculated percentage in subsection (1)(a)(iii) is 40% or more, the bond proposition is approved and adopted if a majority of the votes ~~are~~ *were* cast in favor of the proposition; otherwise it must be rejected.

(c) When the calculated percentage in subsection (1)(a)(iii) is more than 30% but less than 40%, the bond proposition is approved and adopted if 60% or more of the votes ~~have been~~ *were* cast in favor of the proposition; otherwise it must be rejected.

(d) When the calculated percentage in subsection (1)(a)(iii) is 30% or less, the bond proposition must be rejected.

~~(2) For purposes of this section, the total number of electors of the district who are qualified to vote at the bond election equals the sum of:~~

~~(a) the individuals who possess all the qualifications required of electors under the general election laws of the state and who are residents of the district; and~~

~~(b) the individuals who have satisfied the requirements of 7-13-2212(2) with respect to the particular bond election.~~

~~(3)~~*(2)* If the canvass of the vote establishes the approval and adoption of the bond proposition, then the board of directors may by resolution provide for the form and execution of the bonds and for the issuance of the bonds."

Section 141. Section 7-13-2333, MCA, is amended to read:

"7-13-2333. Issuance of revenue or special assessment bonds without election. (1) The board of directors of the district may authorize the issuance of bonds payable from all or a portion of the revenue of the district or from special assessments levied against benefited property in the district to finance the acquisition, construction, improvement, or extension of any facilities of the district benefiting all or any portion of the district for other authorized corporate purposes of the district, to refund bonds issued for those purposes, to fund a debt service refund for the security of the bonds, to pay interest on the bonds during the estimated period of construction or improvement of facilities, and to pay costs of the bond issuance. Revenue or special assessment bonds issued under this section may be authorized by a resolution adopted by the board of directors of the district without need for authorization ~~by the electors~~ *through an election*. Bonded indebtedness incurred pursuant to this section may not be secured by the levy of the deficiency tax provided in 7-13-2302 if not submitted to and approved by the *qualified* electors of the district.

(2) Revenue or special assessment bonds authorized in subsection (1) may be sold as provided in 7-13-2329. The board of directors may, by resolution, pledge to the payment of the revenue bonds or special assessment bonds all or a portion of the rates, fees, tolls, rents, or other charges afforded by or special assessments levied in respect of facilities of the district, whether financed with bonds or other available funds of the district. The pledge may be made on a parity with or with a

superior or subordinate lien to the pledge of the revenue to other bonded indebtedness of the district, subject to any covenants made with owners of outstanding bonds of the district. The board of directors may also make covenants for the benefit of the owners of the bonds as provided in 7-13-2301, but the revenue or special assessment bonds may not be secured by the bond tax levied pursuant to 7-13-2302 or any other taxing powers of the district. The bonds do not constitute and may not be included as an indebtedness or liability of the district for purposes of any statutory debt limitation but are subject to the limitations of this section.

(3) Bonds may be issued under this section only if:

(a) the bonds are issued in the principal amounts and on terms that stipulate that the amount of principal and interest due in any fiscal year on the bonds and any other revenue or special assessment bonds of the district and issued under this section do not exceed the amount of the revenue or special assessment pledged to the payment of the bonds and received in that fiscal year as estimated by the board of directors of the district in the resolution authorizing the issuance of the bonds; and

(b) the final maturity of the bonds is not later than 40 years after the date of issuance of the bonds or the useful life of the project financed from the proceeds of the bonds, as determined by the board of directors."

Section 142. Section 7-13-2341, MCA, is amended to read:

"7-13-2341. Addition of land to district — *election required.* (1) Except as provided in subsection (5), any portion of any county or any municipality, or both, may be added to any district organized under the provisions of part 22 and this part at any time upon petition presented in the manner provided in part 22 and this part for the organization of the district.

(2) The petition may be granted by ordinance of the board of directors of the district. The ordinance must be submitted for adoption or rejection ~~to the vote of the electors in the district and in the proposed addition at a general election, at a special election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election~~ *by the qualified electors*.

(3) If the ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county clerk and recorder of the county in which the district is located. ~~Upon the~~ *On* receipt of the certification, the secretary of state shall within 10 days issue a certificate that states the passage of the ordinance and the addition of the territory to the district. A copy of the certificate must be transmitted to and filed with the county clerk and recorder of the county in which the district is situated.

(4) After the filing of the certificate, the territory is added to and is a part of the district with all the rights, privileges, and powers set forth in this part and necessarily incident to this part.

(5) If the board of directors determines that a district has a water facility or a sewer facility with a capacity greater than required to meet the needs of the current district, it may by ordinance, ~~upon~~ *on* petition of contiguous property owners and with the written consent of all property owners to whom the service is to be extended, expand the district to include land, to the extent of excess capacity, without complying with subsections (1) and (2). However, if the board determines that an election should be held or if 40% or more of the ~~members of the district~~ *qualified electors* petition for an election, compliance with subsections (1) and (2) is required."

Section 143. Section 7-13-2342, MCA, is amended to read:

"7-13-2342. Consolidation of county water and/or sewer districts — *election required.* (1) Two or more districts organized under the provisions of part 22 and this part may consolidate at any time upon petitions submitted to the board of directors of each district. The petitions must be in the form required for petitions for the organization of districts. Each petition must be signed by not less than 10% of the ~~registered voters~~ *qualified electors* of the territory included within the district.

(2) The petitions may be granted by ordinance of the board of directors of each district. The ordinances must be submitted for adoption or rejection ~~to the vote of~~ *by* the *qualified* electors ~~in the district at general or special elections held, as provided in part 22 and this part, within 70 days after the adoption of the ordinances~~.

(3) If the ordinances are approved, the president and secretary of the boards of directors of each district shall certify that fact to the secretary of state and to the county clerk of the county or counties in which the districts are located. ~~Upon the~~ *On* receipt of the certificate, the secretary of state shall within 10 days issue a certificate~~,~~ reciting the passage of the ordinances and the consolidation of the districts. A copy of the certificate must be transmitted to and filed with the county clerk of each county in which the consolidated district is situated.

(4) After the date of the certificate, the districts are considered to be consolidated and consist of one district with all the rights, privileges, and powers set forth in part 22 and this part and necessarily incident to those rights, privileges, and powers.

(5) The number and manner of selection and election of directors of the consolidated district must be the same as the number and manner of selection and election of directors of newly organized districts."

Section 144. Section 7-13-2352, MCA, is amended to read:

"7-13-2352. Dissolution of district by ~~special~~ election. (1) The board of directors may, after notice is given as provided in 7-1-2121, hold a hearing for dissolution of the district if:

(a) the district has no facilities;

(b) the district provides no services;

(c) the board is not a party to any existing contracts and is not engaged in any contract proposals for facilities or services; and

(d) the district has not had outstanding debts for at least 3 years.

(2) At the dissolution hearing, the board of directors shall hear testimony of all persons interested in whether the district should be dissolved.

(3) If the board of directors determines that the dissolution of the district is in the best interests of the public, the board may resolve to recommend that the district be dissolved. The recommendation must include a specific plan for distribution of any remaining assets after dissolution and must be provided to the board of county commissioners in each county in which the district is located.

(4) Upon receipt of a recommendation for dissolution, the board of county commissioners in each county in which the district lies shall order ~~a referendum~~ *an election* on the proposed dissolution. ~~The referendum must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19.~~

(5) If the majority of votes cast at the election by qualified electors of the district are in favor of dissolving the district, each board of county commissioners shall by order declare the district dissolved.

(6) Upon dissolution of the district by each board of county commissioners, the clerk of each county in which the district was located shall immediately send written notice to the secretary of state and shall record a certificate stating that the district is dissolved.

(7) Any assets of the district after dissolution must be distributed according to the plan adopted by the board of directors under subsection (3)."

Section 145. Section 7-13-4204, MCA, is amended to read:

"7-13-4204. Rental charges for use of sewer system — election required. (1) Upon being petitioned by 5% of the ~~qualified~~ *registered* electors *who are residents of the city or town*, the city *or town* council shall ~~submit to a vote to the qualified electors, at the annual municipal election or at a special election held in conjunction with a regular or special election,~~ *conduct an election in accordance with [sections 1 through 5] on* the question of whether or not the city *or town* council may establish and collect rentals for the use of the sewer system, may fix the scale of the rentals, and may prescribe the manner and time at which the rentals must be paid:

(a) to provide the sewer fund;

(b) to provide for the retirement of the bonds and the payment of the interest on the bonds; or

(c) for any purpose mentioned in this section.

(2) If a majority of votes ~~is~~ cast *are* in favor of the proposition, then the city or town council may establish and collect rentals for the use of the sewer system, may fix the scale of rentals, may prescribe the manner and time at which the rentals should be paid, and may change the scale of rentals from time to time as considered advisable.

(3) The revenue provided in this section ~~are~~ *is* in addition to and not exclusive of other revenue that may be legally collected for sewer payment."

Section 146. Section 7-13-4511, MCA, is amended to read:

"7-13-4511. Sufficient protest to require referendum. If the owners of more than 20% of the fee-assessed units in the proposed district protest the creation of the proposed district and the fees proposed to be charged, the commissioners are barred from further proceedings on the matter unless the commissioners submit ~~a referendum to create the district to~~ *the question to* the registered ~~voters~~ *electors* who reside within the proposed district and the ~~registered~~ voters approve the creation of the district and establish the fees by approving the referendum."

Section 147. Section 7-13-4512, MCA, is amended to read:

"7-13-4512. Referendum. (1) The commissioners may adopt a resolution causing a referendum to be submitted to the registered ~~voters~~ *electors* who reside within a proposed local water quality district to authorize the creation of the district and establish fees. *The election must be conducted in accordance with [sections 1 through 5].*

(2) The referendum must state:

(a) the type and maximum rate of the initial proposed fees that would be imposed, consistent with the requirements of 7-13-4523;

(b) the maximum dollar amount for a family residential unit;

(c) the type of activities proposed to be financed, including a general description of the local water quality program; and

(d) a general description of the areas included in the proposed district."

Section 148. Section 7-13-4535, MCA, is amended to read:

"7-13-4535. Referendum to abolish local water quality district or joint local water quality district — termination procedures. (1) A person owning a fee-assessed unit located within a local water quality district or a joint local water quality district may petition the commissioners of a local water quality district or the board of directors of a joint water quality district to submit a referendum to the registered ~~voters~~ *electors* residing in the district to terminate or abolish the district. The petition must be in writing and contain the signatures and addresses of 20% or more of the owners of fee-assessed units in the district. The petition requesting a referendum for termination or abolishment of a district must be delivered to the county clerk, who shall endorse on it the date on which the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the owners of fee-assessed units located within the district, the county clerk shall notify the commissioners of a local water quality district or the board of directors of a joint water quality district.

(2) ~~Upon~~ *On* receipt of a valid petition described in subsection (1), the commissioners of a local water quality district or the board of directors of a joint water quality district shall submit the referendum to the registered ~~voters~~ *electors* residing in the district ~~in accordance with the provisions of 7-5-136~~ *in an election conducted in accordance with [sections 1 through 5]*."

Section 149. Section 7-14-210, MCA, is amended to read:

"7-14-210. Election on question of creating urban transportation district or addition to ~~a~~ district. (1) The commissioners, ~~upon~~ *on* completion of the public hearing required by 7-14-207, shall proceed by resolution to refer the creation of the district or *an* addition to a district to the persons qualified to vote on the proposition.

(2) ~~The commissioners may designate in their resolution whether a special election is to be held in conjunction with a regular or primary election, whether the matter is to be determined at the next general election, or whether the matter is to be determined by a mail ballot election held pursuant to the provisions of Title 13, chapter 19. If a special election is ordered, the order must specify the date for the election and the voting places and the commissioners shall appoint and designate election judges and clerks.~~ *The election must be held in accordance with [sections 1 through 5].*"

Section 150. Section 7-14-211, MCA, is amended to read:

"7-14-211. ~~Conduct of election on question of creating district~~ *Ballot form.* ~~(1) The election shall be held in all respects, as nearly as practicable, in conformity with the general election laws.~~

~~(2)~~ At the election *provided for under 7-14-210*, the ballots shall contain the words:

☐ Transportation district — YES

☐ Transportation district — NO"

Section 151. Section 7-14-212, MCA, is amended to read:

"7-14-212. District to be governed by transportation board — *election of board.* (1) The district must be governed by a transportation board. The commissioners and the governing bodies of each city or town included or

partially included in the district shall determine if the board is to be elected or appointed. *If the board is to be elected, the initial and subsequent elections of board members must be held in accordance with [sections 1 through 5].*

(2) The commissioners and the governing body by resolution shall:

(a) determine the number of board members;

(b) set the term of office;

(c) determine the makeup of the board with respect to the number of appointed members that will represent each county, city, or town;

(d) ~~establish a procedure for selecting the initial members of an elected board. The initial members shall serve until the first county general election after their appointment.~~

~~(e)~~ determine the number of candidates for an elected board whose names must be placed on the ballot ~~in the county general election, based on the results of the primary election~~; and

~~(f)~~*(e)* establish a procedure for filling vacancies on the board, including a provision for public notice.

(3) The commissioners and the governing body may, at any time, adopt a resolution changing the method by which the members of the board are selected. The resolution must contain a provision that the term of office of the current members of the board may not be shortened.

(4) If the board is elected and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the board shall declare elected by acclamation each candidate who filed a nominating petition for a position.

(5) If there are no nominees for an elective office of a member of the board, the vacancy must be filled as provided in subsection ~~(2)(f)~~ *(2)(e)*.

(6) A member of the board taking office pursuant to subsection (4) or (5) serves a term of office as if elected to that office."

Section 152. Section 7-14-214, MCA, is amended to read:

"7-14-214. Election of members of transportation board. Any registered elector in the district may file a ~~petition~~ *declaration* of candidacy with the election administrator of the county where the district is located. A filing fee may not be required. ~~All candidates shall file a nonpartisan petition for candidacy containing the signatures of not less than 25 registered electors of the district. Except for the number of petition signers required, the petition~~ *The declaration* ~~shall~~ *must* be filed as provided in 13-14-113."

Section 153. Section 7-14-1106, MCA, is amended to read:

"7-14-1106. Election of local port authority commissioners. (1) Any registered elector in the county or municipality in which the local port authority is located may file a ~~petition~~ *declaration* of candidacy with the election administrator. ~~The petition must contain the signatures of not less than 25 registered electors of the county or municipality.~~ The ~~petition~~ *declaration* must be filed ~~at least 75 days before the election day~~ *within the time period for candidate filing specified in [section 2]*.

(2) The election must be ~~conducted at the time provided in 13-1-104(3) and in the manner provided by 13-1-401~~ *conducted in accordance with [sections 1 through 5]*.

(3) If no ~~nomination petitions~~ *declarations* are filed for one or more commissioner offices, the appropriate local governing body shall appoint one or more commissioners as necessary to fill those offices."

Section 154. Section 7-14-1134, MCA, is amended to read:

"7-14-1134. Method of funding deficiency — *election required.* (1) Subject to the conditions stated in this section, the governing body of a county or of a municipality having a population in excess of 10,000 may by resolution covenant that if at any time all revenue, including taxes, appropriated and collected for bonds issued pursuant to this part is insufficient to pay principal or interest then due, it will levy a general tax ~~upon~~ *on* all of the taxable property in the county or municipality for the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to occur within 1 year for the payment of principal and interest due on the bonds, it will levy a general tax ~~upon~~ *on* all the taxable property in the county or municipality for the payment of the deficiency. The taxes are not subject to any limitation of rate or amount applicable to other county or municipal taxes but are limited to a rate estimated to be sufficient to produce the amount of the deficiency. If more than one local government is included in an authority issuing bonds pursuant to this part, the local governments may apportion the obligation to levy taxes for the payment of, or in anticipation of, a deficiency in the revenue appropriated for the bonds in a manner that the local governments may determine.

(2) The resolution must state the principal amount and purpose of the bonds and the substance of the covenant respecting deficiencies.

(3) ~~(a)~~ A resolution is not effective until the question of its approval has been submitted to the qualified electors of the local government at an election called for that purpose by the governing body of the local government and held as provided in 15-10-425 and the question is approved by a majority of the electors voting.

~~(b) The notice and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7, chapter 7, part 42, for an election called by cities and towns, and as provided for county general obligation bonds in Title 7, chapter 7, part 22, for an election called by counties.~~

(4) If a majority of the electors voting on the issue vote against approval of the resolution, the local government may not make the covenant or levy a tax for the payment of deficiencies pursuant to this section. The local government or authority may issue bonds under this part payable solely from the sources referred to in 7-14-1133(1)."

Section 155. Section 7-14-1633, MCA, is amended to read:

"7-14-1633. Election required to impose mill levy. (1) Before the levy provided for in 7-14-1632 may be made, the question must be submitted to a vote of the people at an election held pursuant to 15-10-425.

(2) Notice of the election, clearly stating the amount and the purpose of the levy, must be given, and the election ~~must be held and conducted and the returns must be made in the manner prescribed by law for the submission of questions to the electors under the general election laws~~ *must be conducted in accordance with [sections 1 through 5]*."

Section 156. Section 7-14-2507, MCA, is amended to read:

"7-14-2507. Qualifications to vote on *mill levy* question ~~of additional mill levy~~. ~~(1)~~ An individual is entitled to vote at an election *under this chapter* conducted pursuant to 15-10-425 ~~to exceed the levy authority provided for in~~

~~7-14-2501(1)~~ if the individual possesses all of the qualifications required of electors under ~~the general election laws of the state~~ *13-1-111* and is:

~~(a)~~*(1)* a resident of the area *that is or may be* subject to ~~the proposed~~ *a* tax *under this chapter*; or

~~(b)~~*(2)* the owner of taxable property located in the area *that is or may be* subject to ~~the proposed~~ *a* tax *under this chapter*.

~~(2) An individual who is the owner of the property described in subsection (1)(b) need not possess the qualifications required of an elector in subsection (1)(a) if the elector is qualified to vote in any county of the state and files proof of registration with the election administrator at least 20 days prior to the election in which the individual intends to vote.~~"

Section 157. Section 7-14-4512, MCA, is amended to read:

"7-14-4512. Referendum on parking meters prior to enacting ordinance. An ordinance providing for ~~the~~ purchasing, renting, leasing, or otherwise acquiring or installing, maintaining, operating, or using parking meters, devices, or instruments may not be enacted unless the question of whether or not the ordinance may be enacted has been submitted to the qualified electors of the city or town at ~~a general~~ *an* election ~~or a special election that is held in conjunction with a regular or primary election and that is called for that purpose~~ *conducted in accordance with [sections 6 through 10]*. An ordinance may not be enacted unless ~~authorized by~~ a majority of the votes cast are in favor of enacting the ordinance."

Section 158. Section 7-14-4642, MCA, is amended to read:

"7-14-4642. Election required to issue revenue bonds. (1) The power to issue revenue bonds as provided in this part is not operative in any city until the legislative body~~, either at a general election or a special election held in conjunction with a regular or primary election,~~ submits to the *qualified* electors the question as to whether the legislative body, the commission, or both~~,~~ are authorized to adopt the revenue bond method of financing projects provided for in this part.

(2) ~~The question must be placed before the electors and notice must be given in the same manner as provided by law for referring ordinances of the city to the electors~~ *The election on the question must be conducted in accordance with [sections 6 through 10].*

(3) The qualifications of electors are the same as those required for voting at municipal elections in the city for elective officers. The provisions relating to the qualifications of electors and manner of submission of the question to the electors for the purposes of this part are controlling, notwithstanding any provision of law to the contrary."

Section 159. Section 7-16-2102, MCA, is amended to read:

"7-16-2102. Authorization for tax levy for parks and certain cultural, social, and recreational facilities. (1) Subject to 15-10-420, the board of county commissioners may annually levy on the taxable property of the county, in the same manner and at the same time as other county taxes are levied, a tax for the purpose of maintaining, operating, and equipping parks, cultural facilities, and any county-owned civic center, youth center, recreation center, recreational complex, or any combination of purposes, parks, and facilities.

(2) (a) The board of county commissioners shall submit the question of imposing or the continued imposition of the property tax mill levy provided in subsection (1) to the electors of the county ~~at the next general election~~ if a

petition requesting an election, signed by at least 15% of the resident taxpayers of the county, is filed with the county clerk. The petition must be filed with the county clerk at least 90 days prior to the date of the ~~general~~ election.

(b) The question must be submitted as provided in 15-10-425.

(c) The board of county commissioners shall levy the tax if the question for the imposition of the tax is approved by a majority of the electors voting on the question.

(3) All laws applicable to the collection of county taxes apply to the collection of the tax provided for in this section."

Section 160. Section 7-16-2109, MCA, is amended to read:

"7-16-2109. Single assessment for county fair activities, county parks, and certain cultural, social, and recreational facilities — restriction. (1) Subject to 15-10-420 and except as provided in subsection (2) of this section, the county commissioners of a county ~~who have~~ *that has* levied taxes pursuant to 7-16-2102 may combine that levy with any fees assessed in accordance with 7-11-1024 into a single assessment for the purpose of maintaining, operating, and equipping county fair activities, county parks, cultural facilities, and any county-owned civic center, youth center, recreation center, recreational complex, or any combination of purposes, activities, and facilities. The money collected may be distributed among the activities and facilities as determined by the county commissioners.

(2) (a) The board of county commissioners shall submit the question of imposing or continuing the imposition of the single assessment provided for in subsection (1) to the electors of the county ~~at the next general election~~ if a petition requesting a vote on the single assessment, signed by at least 15% of the resident taxpayers of the county, is filed with the county clerk and recorder at least 90 days prior to the date of the ~~general~~ election.

(b) The question must be submitted as provided in 15-10-425.

(c) The board of county commissioners shall collect the assessment if the imposition or continued imposition of the single assessment is approved by a majority of the electors voting on the question."

Section 161. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district — *election — qualified electors.* (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each *subsequent* trustee shall serve a 3-year term of office.

(d) A term of office begins on the date of the trustee's election or appointment.

(2) ~~Trustees must be elected as provided in 13-1-104(3), 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified~~ *Trustee elections must be conducted in accordance with [sections 1 through 5].*

(3) ~~Appointments~~ *An appointment* to fill ~~vacancies~~ *a vacancy* occurring during the term of office of a trustee must be made by the county governing body and ~~appointees~~ *the appointee* shall hold office until the next ~~regular~~ *trustee* election.

(4) An elector, as defined in ~~Title 13~~ *13-1-101*, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

~~(3)~~*(5)* ~~Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district~~ *Any person eligible to vote in the election may file a declaration of candidacy for the office of trustee. The declaration must be filed with the election administrator in the county conducting the election pursuant to [section 5] within the time period specified in [section 2]*.

~~(4)~~*(6)* ~~If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position.~~ If ~~a nomination is not made~~ *there is not a candidate* for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

~~(5)~~*(7)* The trustees shall organize by choosing presiding officers and appointing one member to act as secretary."

Section 162. Section 7-34-2110, MCA, is amended to read:

"7-34-2110. Resolution calling for election *on creation of district — conduct of election.* (1) The board of county commissioners in its resolution may make changes in the boundaries of the proposed district that it considers advisable, without including any additional lands not described in the petition, and it shall call an election ~~upon~~ *on* the question of the creation of the district.

~~(2) The board shall designate in its resolution whether a special election is to be held or whether the matter is to be determined at the next general election. If a special election is ordered, the board shall specify in its order the date for the election. The special election must be held in conjunction with a regular or primary election.~~

(2) The election must be conducted in accordance with [sections 1 through 5]."

Section 163. Section 7-34-2112, MCA, is amended to read:

"7-34-2112. ~~Conduct of election on question of creating district~~ *Ballot form.* ~~(1) The election shall be held in all respects, as nearly as practicable, in conformity with the general election laws.~~

~~(2)~~ At the election *on the creation of a district*, the ~~ballots~~ *ballot* must contain the words "Hospital district — Yes" and "Hospital district — No"."

Section 164. Section 7-34-2117, MCA, is amended to read:

"7-34-2117. Procedure for conduct of election for trustees — appointment of trustees. (1) All elections of trustees ~~following the election of the first board of trustees~~ must be conducted ~~at the time provided in 13-1-104(3) and in the manner provided by 13-1-401~~ *in accordance with [sections 1 through 5]*.

~~(2) Candidates for the office of trustee must be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.~~

~~(3) If there is no nomination petition filed, it is not necessary to hold an election but the board of county commissioners shall appoint a trustee to fill the term. If there is only one nominee for a ballot position, it is not necessary to hold an election for that position and the board of county commissioners shall declare elected by acclamation the candidate who filed a nominating petition for the position.~~

(2) The first board of trustees must be elected at the election under 7-34-2110 on whether to create the district, subject to voter approval of the district.

(3) If there are no candidates for a trustee position, the board of county commissioners shall appoint the trustee.

(4) A member of the board taking office pursuant to subsection (3) serves a term of office as if elected to that office."

Section 165. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, *is* submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees; *or*

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, ~~regular,~~ special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means ~~a general or primary~~ *an* election *in even-numbered years* in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" ~~or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1)~~ *means an election that is held for offices that first appear on a*

primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement ~~upon~~ *on* the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(22) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; ~~or~~

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(23) "Political subdivision" means a county, consolidated municipal-county government, municipality, special *purpose* district, or any other unit of government, except school districts, having authority to hold an election ~~for officers or on a ballot issue~~.

(24) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(25) "Primary" or "primary election" means an election held ~~throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state~~ *on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.*

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(28) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(29) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(31) *"Regular school election" means the school trustee election provided for in 20-20-105(1).*

(32) "School election" has the meaning provided in ~~20-20-101~~ *20-1-101.*

~~(32)~~*(33)* "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

~~(33)~~*(34)* "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

~~(34)~~*(35)* "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

~~(35)~~*(36)* "Special election" means an election *held on a day* other than *the day specified for* a ~~statutorily scheduled~~ primary ~~or~~ *election,* general *election, or regular school* election ~~held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election~~.

(37) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

~~(36)~~*(38)* "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(37)~~*(39)* "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(38)~~*(40)* "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(39)~~*(41)* "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

~~(40)~~*(42)* "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 166. Section 13-1-104, MCA, is amended to read:

"13-1-104. Times for holding general elections. ~~(1) (a) Except as provided in subsection (1)(b), a general election must be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article~~

~~XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.~~

~~(b) A special election may be held on an earlier date provided in a law authorizing a special statewide election on an initiative or referendum pursuant to Article III, section 6, of the Montana constitution.~~

~~(2) A general election must be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.~~

~~(3) The general election for any political subdivision, other than a municipality, required to hold elections annually must be held on school election day, the first Tuesday after the first Monday of May of each year, and is subject to the election procedures provided for in 13-1-401.~~

~~(4) The general election for a municipality required to hold elections annually may be held either on school election day, as provided in subsection (3), or on the first Tuesday after the first Monday in November, at the discretion of the governing body.~~ *(1) A general election must be held throughout the state on the first Tuesday after the first Monday in November.*

(2) In every even-numbered year, the following elections must be held on general election day:

(a) an election on any ballot issue submitted to electors pursuant to Article III, section 6, unless the legislature orders a special election, or Article XIV, section 8, of the Montana constitution;

(b) an election of federal officers, members of the legislature, state officers, multicounty district officers elected at a statewide election, district court judges, and county officers; and

(c) any other election required by law to be held on general election day in an even-numbered year.

(3) In every odd-numbered year, the following elections must be held on the same day as the general election:

(a) an election of officers for municipalities required by law to hold the election; and

(b) any other election required by law to be held on general election day in an odd-numbered year."

Section 167. Section 13-1-106, MCA, is amended to read:

"13-1-106. Time of opening and closing of polls for all elections — exceptions. (1) Except as provided in subsections (2) and (3), polling places must be open from 7 a.m. to 8 p.m.

(2) A polling place having fewer than 400 registered electors must be open from at least noon to 8 p.m. or until all registered electors in any precinct have voted, at which time that precinct in the polling place must be closed immediately.

(3) If an election ~~held under 13-1-104(3) and~~ *is held on the same day as* a school election ~~are~~ *and is* conducted in the same polling place, the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106."

Section 168. Section 13-1-107, MCA, is amended to read:

"13-1-107. Times for holding primary elections — *cost of municipal election.* (1) On the first Tuesday after the first Monday in June preceding ~~the~~ *a* general election ~~provided for in 13-1-104(1)~~ *held in an even-numbered year*, a primary election ~~shall~~ *must* be held throughout the state.

(2) On the Tuesday following the second Monday in September preceding ~~the~~ *a* general election ~~provided for in 13-1-104(2)~~ *held in an odd-numbered year*, a primary election, if required, ~~shall~~ *must* be held throughout the state.

(3) ~~If the general election for a municipality required to hold annual elections is held in November, as provided in 13-1-104(4), a primary election, if required, shall be held on the Tuesday following the second Monday in September. In an even-numbered year, the~~ *The* cost of ~~this~~ *a municipal* election must be paid by the municipality."

Section 169. Section 13-1-108, MCA, is amended to read:

"13-1-108. Notice of ~~special~~ *political subdivision* elections. *(1)* ~~Notice of any special election must be broadcast or published at least three times in the 4 weeks immediately preceding the election~~ *Except as otherwise provided in this section, an election administrator conducting a political subdivision election shall give notice of the election at least three times no earlier than 40 days and no later than 10 days before the election. The notice must be published* in a newspaper of general circulation in the jurisdiction where the election will be held or ~~may be broadcast~~ *by broadcasting the notice* on radio or television as provided in 2-3-105 through 2-3-107. *The notice must be given* using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this ~~section~~ *subsection (1)* are fulfilled upon the third publication or broadcast of the notice.

(2) If the newspaper of general circulation within a political subdivision is a weekly newspaper, the notice may be published only two times and the notice requirements are fulfilled upon the second publication of the notice.

(3) With respect to an election on the creation or dissolution of a special purpose district or the alteration of a special purpose district's boundaries, the notice must include a specific description of the proposed boundaries or the proposed change to the boundaries."

Section 170. Section 13-1-301, MCA, is amended to read:

"13-1-301. Election administrator. (1) The county clerk and recorder of each county is the election administrator unless the governing body of the county designates another official or appoints an election administrator.

(2) The election administrator is responsible for the administration of all procedures relating to registration of electors and conduct of elections, shall keep all county records relating to elector registration and elections, and is the primary point of contact for the county with respect to the statewide voter registration list and implementation of other provisions of applicable federal law governing elections.

(3) The election administrator may appoint a deputy election administrator for each political subdivision required to hold ~~annual~~ elections ~~under the provisions of 13-1-104(3)~~. ~~Each election administrator or deputy election~~

~~administrator is responsible for the conduct of the annual elections of the political subdivision, as provided by 13-1-401.~~"

Section 171. Section 13-1-401, MCA, is amended to read:

"13-1-401. ~~Manner of conducting general elections for political subdivisions required to hold annual elections~~ *School district and political subdivision election cooperation.* ~~(1)~~ Any political subdivision ~~required to hold annual elections under 13-1-104(3) may~~ *holding a polling place election on the same day as a regular school election shall* cooperate with *a* school ~~districts~~ *district* having similar district boundaries to hold the election at the same ~~location~~ *polling place*. The election administrator ~~or deputy election administrator~~ appointed under the provisions of 13-1-301 shall cooperate with the school district election administrator to share costs, as provided in 13-1-302.

~~(2) A political subdivision subject to 13-1-104(3) may, with the consent of the election administrator or deputy election administrator, conduct its annual election at an annual meeting of the political subdivision or at another convenient location within the political subdivision.~~

~~(3) A political subdivision election subject to 13-1-104(3) may be conducted by mail ballot as provided in Title 13, chapter 19.~~

~~(4) The election administrator or deputy election administrator conducting an election under the provisions of subsection (1), (2), or (3) shall give notice of the election not less than 20 days or more than 40 days before the day of the election by display advertisement at least two times in a newspaper of general circulation within the political subdivision. The election administrator or deputy election administrator may notify the public of the election by additional posting of notices or radio and television announcements.~~"

Section 172. Section 13-2-301, MCA, is amended to read:

"13-2-301. Close of regular registration — notice — changes. (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) *except as provided in subsection (5),* publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

(4) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304.

(5) The method of a notice about the close of regular registration for a school election must be as specified in 20-20-204."

Section 173. Section 13-2-304, MCA, is amended to read:

"13-2-304. Late registration — late changes — ~~nonapplicability for school elections~~. (1) Except as provided in ~~subsections~~ *subsection* (2) ~~and (3)~~, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

(b) Late registration is closed from noon to 5 p.m. on the day before the election.

(c) Except as provided in 13-2-514(2)(a) *and subsection (1)(d)*, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns it to the location designated by the county election administrator.

(d) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office*, or received by the school district if the district is administering the election,* and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system*, or by the school district if the district is administering the election,* prior to the change.

~~(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20 [unless the county election administrator is conducting the school election and an election other than a school election on the same day]. (Bracketed language void on occurrence of contingency—sec. 64, Ch. 336, L. 2013.)~~"

Section 174. Section 13-3-202, MCA, is amended to read:

"13-3-202. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Accessible" means accessible to individuals with disabilities and elderly individuals for purposes of voting as determined in accordance with standards established by the secretary of state under 13-3-205.

(2) "Disability" means a temporary or permanent physical impairment such as:

(a) impaired vision;

(b) impaired hearing; or

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

(3) "Elderly" means 65 years of age or older.

(4) "Election" means a general, special, or primary election held in an even-numbered year~~, as provided for in 13-1-104(1) and 13-1-107(1)~~.

(5) "Inaccessible" means not accessible under standards adopted pursuant to 13-3-205.

(6) "Rural polling place" means a location that is expected to serve less than 200 registered electors."

Section 175. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination — term limitations. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court; *or*

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or *a* judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration for nomination must include an oath of the candidate that includes wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise in a court of law.

(5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(6) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(7) ~~(a)~~ Except as provided in 13-10-211 ~~and subsection (7)(b) of this section~~, a candidate's declaration for nomination must be filed no sooner than ~~135~~ *145* days before the election in which the office first appears on the ballot and no later than 5 p.m., ~~75~~ *85* days before the date of the primary election.

~~(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a candidate's declaration for nomination must be filed no sooner than~~

~~145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.~~

(8) A properly completed and signed declaration for nomination form may be sent by facsimile transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary of state.

(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:

(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and *to* end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and *to* end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

Section 176. Section 13-10-208, MCA, is amended to read:

"13-10-208. ~~Certificate of primary~~ *Certification of candidate names and ballot issues for* ballot — preparing ballot. (1) ~~Not more than 85 days and not less than 75 days before the date of the primary election~~ *Ten days after the close of candidate filing under 13-10-201(7) for a primary election*, the secretary of state shall certify to the election administrators the names and designations of candidates *who have filed with the secretary of state*, ~~except as provided in~~ *subject to* 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

(2) ~~(a) Except as provided in subsection (2)(b), not more than 67 days and not less than 62 days before the date of the primary election, the~~ *On receiving the secretary of state's certification pursuant to subsection (1), the county* election administrator shall certify the names and designations of *all* candidates *whose names are entitled to appear on the ballot*, ~~except as provided in~~ *subject to* 13-37-126, and any ballot issues as shown in the official record of the *county* election administrator's office and ~~must~~ *shall* have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

~~(b) For a primary election conducted pursuant to 13-1-107(1), the election administrator shall, not more than 75 days and not less than 70 days before the date of the primary election, certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.~~

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

Section 177. Section 13-10-209, MCA, is amended to read:

"13-10-209. Arrangement and preparing of primary ballots. (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that there must be separate ballots for each political party entitled to

participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear with each candidate's name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

(i) each section is clearly identified as separate; and

(ii) the nonpartisan offices and ballot issues appear on each party's ballot.

(2) Except as provided in subsection (3), an election administrator does not need to prepare a primary ballot for a political party if:

(a) the party does not have candidates for more than half of the offices to appear on the ballot; and

(b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

(3) Subsection (2) does not apply to elections for precinct committee offices. If more than one candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that party shall select the candidate to fill the office.

(4) If, pursuant to subsection (2), in a primary election held ~~under 13-1-107(1)~~ *in an even-numbered year* a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(5) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

(6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

(7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices."

Section 178. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates. (1) Except as provided in subsection ~~(8)~~ *(7)*, a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in ~~subsections~~ *subsection* (2) ~~and (3)~~ *and 20-3-305(3)(b)*, the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

(a) *the candidate's name, including:*

(i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been canceled as provided by law.

~~(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.~~

~~(4)~~*(3)* The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator ~~and school district clerk~~ shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

~~(5)~~*(4)* A properly completed and signed declaration of intent may be provided to the election administrator or secretary of state:

(a) by facsimile transmission;

(b) in person;

(c) by mail; or

(d) by electronic mail.

~~(6)~~*(5)* A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

~~(7)~~*(6)* A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

~~(8)~~*(7)* Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

(a) an election is held;

(b) a person's name is written in on the ballot;

(c) the person is qualified for and seeks election to the office for which the person's name was written in; and

(d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

Section 179. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination. (1) (a) A candidate for nomination or *a* candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom the

candidate's declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought. Unless filed electronically with the secretary of state, the statement of withdrawal from nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

~~(b) Except as provided in subsection (1)(c), a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.~~

~~(c)~~*(b)* A candidate may not withdraw ~~later than 85 days before a general election conducted pursuant to 13-1-104(1)(a) or a primary election conducted pursuant to 13-1-107(1)~~ *after the candidate filing deadline established in 13-10-201(7).*

(2) Filing fees paid by the candidate may not be refunded."

Section 180. Section 13-10-326, MCA, is amended to read:

"13-10-326. Vacancy prior to primary election. (1) ~~Except as provided in subsection (2):~~

~~(a) if~~ *If* a candidate for nomination for a partisan office dies or withdraws ~~75 days or more before the primary election~~ *before the candidate filing deadline established in 13-10-201(7)*, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327~~; or~~.

~~(b)~~*(2) Except as provided in subsection (3),* if a candidate for nomination for a partisan office dies ~~less than 75 days before the primary election~~ *after the candidate filing deadline established in 13-10-201(7), or is disqualified pursuant to 13-37-126 from having the candidate's name appear on the primary election ballot*, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election.

~~(2) For an election conducted pursuant to 13-1-104(1)(a) or 13-1-107(1):~~

~~(a) if a candidate for nomination for a partisan office dies or withdraws 85 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327; or~~

~~(b) if a candidate for nomination for a partisan office dies less than 85 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election.~~

(3) ~~This section does not allow a~~ *A* political party ~~to~~ *may not* appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election *or if the deadline for certifying candidate names for the ballot pursuant to 13-10-208 has passed*."

Section 181. Section 13-10-327, MCA, is amended to read:

"13-10-327. Vacancy after primary and prior to general election. (1) Except as provided in 13-10-328 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a candidate, if a party candidate dies or withdraws after the primary and before the general election, *or if a candidate is disqualified pursuant to 13-37-126 from having the candidate's name appear on a general election ballot,* the affected political party shall appoint someone to replace the candidate in one of the following ways:

(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment must be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment must be made under rules adopted by the county central committee.

(2) Except as provided in this section, appointments to fill vacancies must be made no later than 76 days before the election. A candidate may not officially withdraw 85 days or less before a general election. However, if a candidate for partisan office dies less than 85 days before the general election, the affected political party shall appoint a candidate within 5 days after being notified of the vacancy. One of the procedures provided in 13-12-204 must be used to place the name of the appointee on the ballot if necessary.

(3) The appointing committee shall send a certificate to the officer with whom a declaration for nomination for the office would be filed, with the information required on a declaration for nomination and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the appointment and the filing fee for the office.

(4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance and the filing fee, shall certify the name of the appointee for the ballot."

Section 182. Section 13-10-405, MCA, is amended to read:

"13-10-405. Submission and verification of petition. Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in 13-10-201(7)~~(b)~~. A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and must forward the petitions to the secretary of state by the filing deadline prescribed in 13-10-201(7)~~(b)~~."

Section 183. Section 13-12-201, MCA, is amended to read:

"13-12-201. ~~Secretary of state to certify~~ *Certification of candidate names and ballot issues for general election* ballot. (1) Seventy-five days ~~or more~~ before a ~~federal~~ general election, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate *who filed with the secretary of state and whose name is* entitled to appear on the ballot*, subject to 13-37-126,* and the ballot issues as shown in the official records of the secretary of state's office~~, which must include the notification specified in 13-37-126~~.

(2) ~~The~~ *On certification from the secretary of state's office pursuant to subsection (1), the* election administrator shall certify the name and party or other designation of each candidate *whose name is* entitled to appear on the ballot*, subject to 13-37-126,* and the ballot issues as shown in the official records of the election administrator's office, ~~which must include the notification specified in 13-37-126,~~ and shall have the official ballots prepared.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state

shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

Section 184. Section 13-13-205, MCA, is amended to read:

"13-13-205. When ballots to be available *for absentee voting*. (1) Except as provided in subsection (2), the election administrator shall ensure that ballots *for an election not conducted by mail* are available for *absentee* voting at least:

(a) ~~30~~ *25* days prior to ~~an~~ election ~~for those elections held in compliance with 13-1-107(1)~~ *day for an election not covered under subsection (1)(b)*; *and*

(b) 20 days prior to ~~an~~ *election day for a special purpose district or school district* election ~~for those elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2); and~~.

~~(c) 30 days prior to an election held in conjunction with a federal general election in compliance with 13-1-104(1).~~

(2) A *federal election* ballot requested *by an absent uniformed services or overseas elector* pursuant to Title 13, chapter 21, must be sent to the elector as soon as the ballot is printed ~~or at least~~ *but not later than* 45 days in advance of ~~an~~ *the* election ~~held in conjunction with a federal primary election, federal general election, or federal special election~~."

Section 185. Section 13-14-112, MCA, is amended to read:

"13-14-112. Declarations for nomination — fee — filing. (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual seeks.

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the ~~applicable~~ filing period provided in 13-10-201(7)~~(a) or (7)(b)~~ for the office that the individual seeks."

Section 186. Section 13-14-113, MCA, is amended to read:

"13-14-113. Filing for offices without salary or fees. (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination or a declaration for nomination containing the information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) Petitions for nomination or declarations for nomination must be filed within the ~~applicable~~ filing period provided in 13-10-201(7)~~(a) or (7)(b)~~.

(3) A candidate may not file for more than one public office."

Section 187. Section 13-14-115, MCA, is amended to read:

"13-14-115. Preparation and distribution of nonpartisan primary ballots — determination on conducting primary. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". The ballots must

be arranged and prepared as provided in 13-10-209 and be without political designation.

(2) (a) The election administrator of a political subdivision may determine that a local nonpartisan portion of a primary election need not be held if:

(i) the number of candidates for an office exceeds three times the number to be elected to that office in no more than one-half of the offices on the ballot; and

(ii) the number of candidates in excess of three times the number to be elected is not more than one for any office on the ballot.

(b) If the election administrator determines that a municipal primary election ~~held pursuant to 13-1-107(2)~~ must be held pursuant to subsection (2)(a) of this section for a local nonpartisan office, the election administrator shall conduct the election only for the local nonpartisan offices that have candidates filed in excess of two times the number to be elected to that office.

(c) If the election administrator determines that a primary election need not be held pursuant to subsection (2)(a) or (2)(b) for a local nonpartisan office, the administrator shall give notice to the governing body that a primary election will not be held for that office.

(3) The governing body may require that a primary election be held for a local nonpartisan office if it passes a resolution not more than 10 days after the close of filing by candidates for election stating that a primary election must be held for that office."

Section 188. Section 13-15-206, MCA, is amended to read:

"13-15-206. Counting votes — uniformity — rulemaking — definitions. (1) When conducting vote counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and determine the validity of each vote in a uniform manner as provided in this section.

(2) A manual count or recount of votes must be conducted as follows:

(a) One election judge on the board shall read the ballot while the two other judges on the board shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote has not been cast according to instructions, the vote must be considered questionable and the entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).

(b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.

(ii) If the two tallies match, the judges shall record in the official results records:

(A) the names of all individuals who received votes;

(B) the offices for which individuals received votes;

(C) the total votes received by each individual as shown by the tally sheets; and

(D) the total votes received for or against each ballot issue, if any.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the two tallies match.

(3) (a) When a voting system is counting votes:

(i) if a vote is recognized and counted by the system, it is a valid vote;

(ii) if a vote is not recognized and counted by the system, it is not a valid vote; *and*

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an unmarked ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

(c) If an election administrator or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

(d) After all valid votes have been counted and totaled, the judges shall record in the official results records the information specified in subsection (2)(b)(ii).

(4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

(5) A write-in vote may be counted only if:

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(ii) pursuant to 13-10-211~~(8)~~*(7)*, a declaration of nomination was not filed and the write-in vote identifies an individual who is qualified for the office; and

(b) the oval, box, or other designated voting area on the ballot is marked.

(6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

(8) Local election administrators shall adopt policies to govern local processes that are consistent with the provisions of this title and that provide for:

(a) the security of the counting process against fraud;

(b) the place and time and public notice of each count or recount;

(c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;

(d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and

(e) the keeping of a public record of count or recount proceedings.

(9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue."

Section 189. Section 13-19-205, MCA, is amended to read:

"13-19-205. Written plan for conduct of election — amendments — approval procedures. (1) The election administrator shall prepare a written plan for the conduct of ~~the~~ *each* election *to be conducted by mail* and shall submit ~~it~~ *the plan* to the secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election. *There must be a separate plan for each type of election held even if held on the same day.*

(2) The written plan must include:

(a) a timetable for the election; and

(b) sample written instructions that will be sent to the electors. The instructions must include but are not limited to:

(i) information on the estimated amount of postage required to return the ballot;

(ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the places of deposit, if the information is available; or

(B) if the information on location and hours of places of deposit is not available, a section that will allow the information to be added before the instructions are mailed to electors; and

(iii) any applicable instructions specified under 13-13-214(5).

(3) The plan may be amended by the election administrator *at* any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

(5) When the written plan ~~has~~ *and any amendments have* been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law."

Section 190. Section 13-19-207, MCA, is amended to read:

"13-19-207. When materials to be mailed. (1) Except as provided in *13-13-205(2) and* subsection (2), for any election conducted by mail, ballots must be mailed no sooner than the ~~25th~~ *20th* day and no later than the 15th day before election day.

(2) (a) All ballots mailed to electors on the active list and *the* provisionally registered list must be mailed the same day.

(b) At any time before noon on the day before election day, a ballot may be mailed or, ~~upon~~ *on* request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual who registers under the late registration option provided for in 13-2-304.

(c) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(d) An elector who registers pursuant to 13-2-304 on election day or on the day before election day must receive the ballot and vote it at the election administrator's office."

Section 191. Section 13-35-107, MCA, is amended to read:

"13-35-107. Voiding election. (1) (a) If a court finds that the violation of any provision of this title by any person probably affected the outcome of any election, the result of that election may be held void and a special election held~~:~~

~~(i) except as provided in subsection (1)(a)(ii), within 75 days of the finding; or~~

~~(ii) if the election was held pursuant to 13-1-104(1)(a) or 13-1-107(1), within~~ *at least* 85 days ~~of~~ *after* the finding.

(b) If the violation occurred during a primary election, the court may direct the selection of a new candidate according to the provisions of state law relating to the filling of vacancies on the general election ballot. Except as provided in subsection (2), an action to void an election must be commenced within 1 year ~~of~~ *after* the date of the election in question.

(2) An action to void a bond election must be commenced within 60 days ~~of~~ *after* the date of the election in question."

Section 192. Section 13-37-126, MCA, is amended to read:

"13-37-126. Names not to appear on ballot. (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by 2-2-106 or this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by ~~the name of~~ the same candidate.

(3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state ~~or~~ *and* the election administrator ~~that~~ *conducting an election when* a candidate or a candidate's treasurer has not complied with *2-2-106 or* the provisions of this chapter~~, as described in subsection (1),~~ and that ~~a~~ *the* candidate's name may not appear on the official ballot.

(b) The commissioner shall provide the notification:

~~(i) within 8 calendar days after the earliest certification deadline provided in 13-10-208(1) for primary elections held pursuant to 13-1-107(1); or~~

~~(ii)~~*(i)* ~~by the earliest date specified under 13-10-208(2) for the county election administrator to certify the ballot for primary elections held pursuant to 13-1-107(2) or (3)~~ *2 calendar days before the certification deadline provided in 13-10-208 for statewide primary elections and 20-20-401 for school district elections*; and

~~(iii)~~*(ii)* ~~by no later than~~ 7 days before the ~~ballot~~ certification deadline provided in 13-12-201 for general elections."

Section 193. Section 13-37-206, MCA, is amended to read:

"13-37-206. Exception for certain school districts and certain special districts. (1) The provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate for the office of trustee of a school district, the candidate's political campaign, or a political committee organized to support or oppose a school district issue or a candidate when the school district is:

(a) a first-class district located in a county having a population of less than 15,000;

(b) a second- or third-class district; or

(c) a county high school district having a student enrollment of less than 2,000.

(2) The provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate, the candidate's political campaign, or a political committee organized to support or oppose an issue or a candidate if the candidate is running for or the committee's issue involves a unit of local government authorized by law to perform a single function or a limited number of functions, including but not limited to a conservation district, a weed management district, a fire district, a community college district, a hospital district, an irrigation district, a sewer district, a transportation district, a water district, ~~or~~ any *other special purpose* district, or ~~other~~ *any* entity formed by interlocal agreement."

Section 194. Section 15-10-425, MCA, is amended to read:

"15-10-425. Mill levy election. (1) A county, consolidated government, incorporated city, incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an election as provided in this section.

(2) An election ~~conducted~~ pursuant to this section ~~may be held in conjunction with a regular or primary election or may be a special election~~ *must be held in accordance with [sections 1 through 5], [sections 6 through 10], or Title 20 for school elections, whichever is appropriate to the taxing entity*. The governing body shall pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or petition must include:

(a) the specific purpose for which the additional money will be used;

(b) either:

(i) the specific amount of money to be raised and the approximate number of mills to be imposed; or

(ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and

(c) whether the levy is permanent or the durational limit on the levy.

(3) Notice of the election must be prepared by the governing body and given as provided ~~by law~~ *in 13-1-108*. The form of the ballot must reflect the content of the resolution or charter amendment and must include a statement of the impact of the election on a home valued at $100,000 and a home valued at $200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

(4) If the majority voting on the question are in favor of the additional levy, the governing body is authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter amendment.

(5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills approved in the election. However, nothing in this subsection authorizes a governing body to impose more than the approved levy in any fiscal year or to extend the duration of the approved levy."

Section 195. Section 15-65-101, MCA, is amended to read:

"15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) (a) "Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) "Council" means the tourism advisory council established in 2-15-1816.

(4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(b) The term does not include any health care facility, as defined in 50-5-101, *or* any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort area district in which the bureau is located.

(6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

(7) "Resort area" means an area established pursuant to 7-6-1508.

(8) "Resort area district" has the meaning provided in ~~7-6-1531~~ *7-6-1501*."

Section 196. Section 16-1-205, MCA, is amended to read:

"16-1-205. Local option. The electors of a county may, by approving an initiative as provided under 7-5-131 through *7-5-135 and* 7-5-137, prohibit the sale and consumption of liquor or of all alcoholic beverages within the county. If ~~such~~ *the* initiative is presented to the board of county commissioners, the board may not approve it but shall submit the proposal to the people ~~under Title 7, chapter 5, part 1~~ *as provided in 7-5-136*."

Section 197. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business;

(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the

seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, ~~upon~~ *on* approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to

or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as ~~the resort community is designated by the department of commerce under~~ *defined in* 7-6-1501~~(5)~~, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) $5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) $10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) $20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is $400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 198. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation standards" means the body of administrative rules governing standards such as:

(a) school leadership;

(b) educational opportunity;

(c) academic requirements;

(d) program area standards;

(e) content and performance standards;

(f) school facilities and records;

(g) student assessment; and

(h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

(3) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(4) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

(6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(7) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(8) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(9) "County superintendent" means the county government official who is the school officer of the county.

(10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(11) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

(12) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

(14) "Offsite instructional setting" means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.

(15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

(16) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by

special permission of the board of trustees under 20-5-101(3) but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

(17) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

(18) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

(19) "Regents" means the board of regents of higher education.

(20) *"Regular school election" or "trustee election" means the election for school board members held on the day established in 20-20-105(1).*

(21) "School election" means a regular school election or any election conducted by a district or community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title.

(22) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

(23) "Special school election" means an election held on a day other than the day of the regular school election, primary election, or general election.

~~(21)~~*(24)* "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(22)~~*(25)* "State university" means Montana state university-Bozeman.

~~(23)~~*(26)* "Student with limited English proficiency" means any student:

(a) (i) who was not born in the United States or whose native language is a language other than English;

(ii) who is an American Indian and who comes from an environment in which a language other than English has had a significant impact on the individual's level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

~~(24)~~*(27)* "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(25)~~*(28)* "System" means the Montana university system.

~~(26)~~*(29)* "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(27)~~*(30)* "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(28)~~*(31)* "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(29)~~*(32)* "Trustees" means the governing board of a district.

~~(30)~~*(33)* "University" means the university of Montana-Missoula.

~~(31)~~*(34)* "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

Section 199. Section 20-3-202, MCA, is amended to read:

"20-3-202. Term, oath, and vacancy. (1) The county superintendent shall hold office for a term of 4 years. The county superintendent shall ~~assume office on the first Monday of January following election and shall~~*:*

(a) take the oath of office on or before the last business day of December following the superintendent's election;

(b) assume office at 12:01 a.m. on January 1 following the superintendent's election; and

(c) hold the office until a successor has been elected and qualified.

(2) Any person elected as the county superintendent shall ~~take the oath or affirmation of office and shall~~ give an official bond, as required by law.

(3) If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. The replacement shall serve until the next ~~regular~~ general election, when a person must be elected to serve the remainder of the initial term, if there is any remaining term."

Section 200. Section 20-3-301, MCA, is amended to read:

"20-3-301. Election and term of office. (1) Every trustee position prescribed by this title ~~shall be~~ *is* subject to election~~, and the~~. *Except as provided in 20-3-313, a school trustee election must be held annually on the regular school election day established in 20-20-105(1).*

(2) The term of office for each position ~~shall~~ *must* be 3 years unless it is otherwise specifically prescribed by this title.

~~(2)~~*(3)* The *board of* trustees ~~shall~~ *must* be composed of the number of trustee positions prescribed for a district by 20-3-341 and 20-3-351. When exercising the power and performing the duties of trustees, the members shall act collectively and only at a regular or a properly called special meeting.

~~(3)~~*(4)* The number of trustee positions in a district ~~shall~~ *must* vary in accordance with 20-3-341 and 20-3-351 according to the type of district."

Section 201. Section 20-3-305, MCA, is amended to read:

"20-3-305. Candidate qualification, ~~nomination~~ *filing deadline*, and withdrawal. (1) Except as provided in 20-3-338, any person who is qualified to vote in a district under the provisions of 20-20-301 is eligible for the office of trustee.

~~(2) Except as provided in 20-3-338, any five electors qualified under the provisions of 20-20-301 of any district, except a first-class elementary district, may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. The~~

(2) (a) Except as provided in subsection (2)(b), ~~name of each person nominated for candidacy~~ *a declaration of intent to be a candidate* must be submitted to the clerk of the district ~~not less than~~ *at least* 40 days before the regular school election day at which the person is to be a candidate. If there are different terms to be filled, the term for *the position for* which ~~each~~ *the* candidate ~~is nominated~~ *is filing* must also be indicated.

(b) A person seeking to become a write-in candidate for a trustee position shall file a declaration of intent no later than 5 p.m. on the day before the ballot certification deadline in 20-20-401.

(3) (a) A candidate intending to withdraw from the election shall send a statement of withdrawal to the clerk of the district. The statement must contain all information necessary to identify the candidate and the office for which the candidate ~~was nominated~~ *filed*. The statement of withdrawal must be acknowledged by the clerk of the district.

(b) A candidate may not withdraw ~~less than 38 days before a school election~~ *after 5 p.m. the day before the ballot certification deadline in 20-20-401*.

~~(c) Filing fees paid by the candidate may not be refunded.~~"

Section 202. Section 20-3-306, MCA, is amended to read:

"20-3-306. Conduct of election. (1) The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year under the provisions of 20-20-201, except as provided in 20-3-313 ~~and 20-3-344~~. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school elections and Title 13. Any elector qualified to vote under the provisions of 20-20-301 may vote at a trustee election.

(2) The trustee election ballots must be substantially in the following form:

OFFICIAL BALLOT SCHOOL TRUSTEE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.

Vote for (indicate number to be elected) for a 3-year term:

☐ (List the names of the candidates for a 3-year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a 2-year term:

☐ (List the names of the candidates for a 2-year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a 1-year term:

☐ (List the names of the candidates for a 1-year term with a vacant square in front of each name.)"

Section 203. Section 20-3-307, MCA, is amended to read:

"20-3-307. Qualification and oath. (1) A person who receives a certificate of election as a trustee under the provisions of 20-3-313 or 20-20-416 may not assume the trustee position until the person has qualified. The person shall

qualify by taking an oath of office administered by the county superintendent, the superintendent's designee, or any official provided for in 1-6-101 or 2-16-116. The oath must be filed with the county superintendent not more than 15 days after the receipt of the certificate of election. After a person has qualified for a trustee position, the person holds the position until a successor has been elected or appointed and has been qualified.

(2) If the elected person does not qualify in accordance with this requirement, a person must be appointed in the manner provided by 20-3-309 and shall serve until the next regular *school* election."

Section 204. Section 20-3-313, MCA, is amended to read:

"20-3-313. Election by acclamation — notice. (1) If the number of candidates filing for vacant positions or filing a declaration of intent to be a write-in candidate under ~~13-10-211~~ *20-3-305(2)(b)* is equal to or less than the number of positions to be elected, the trustees may give notice that a trustee election will not be held. Notice must be given no later than ~~25~~ *30* days before the election.

(2) If a trustee election is not held, the trustees shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate and shall issue a certificate of election to the candidate.

(3) An election for a trustee in a single-member district as provided in 20-3-338 or in a trustee nominating district as provided in 20-3-353 is considered a separate trustee election for the purposes of declaring election by acclamation as provided in this section."

Section 205. Section 20-3-321, MCA, is amended to read:

"20-3-321. Organization and officers. (1) The trustees of each district shall annually organize as a governing board of the district after the regular *school* election day and after the issuance of the election certificates to the newly elected trustees, but not later than 15 days after the election. In order to organize, the trustees of the district must be given notice of the time and place where the organization meeting will be held, and at the meeting they shall choose one of their number as the presiding officer. In addition, except for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high school shall appoint a secretary, who must be a member of the board.

(2) The presiding officer of the trustees of any district shall serve until the next organization meeting and shall preside at all the meetings of the trustees in accordance with the customary rules of order. The presiding officer shall perform the duties prescribed by this title and any other duties that normally pertain to a presiding officer.

(3) The presiding officer of a board of trustees of an elementary district may be any trustee of the board, including an additional trustee as provided for in 20-3-352(2). If an additional trustee is chosen to serve as the presiding officer of the board of trustees of an elementary district described in 20-3-351(1)(a), the additional trustee may not vote on issues pertaining only to the elementary district."

Section 206. Section 20-3-337, MCA, is amended to read:

"20-3-337. Plan for creating single-member trustee districts — petition election. (1) Except as provided in subsection (8), the board of trustees

of a school district may establish a procedure for studying the appropriateness of creating single-member trustee districts within the school district.

(2) If the board considers a single-member district plan, the plan must establish single-member districts that:

(a) are as compact in area and as equal in population as possible; and

(b) provide equitable voting rights for the minorities residing within the school district by ensuring that the access of minorities to the political process is not diluted in contravention of the Voting Rights Act Amendments of 1982, Public Law 97-205.

(3) If the board determines that it is in the best interest of the electors of the school district, it shall:

(a) propose creation of a single-member trustee district plan;

(b) schedule and hold a public hearing on the proposed plan; and

(c) publish in a newspaper of general circulation in the district a notice of the public hearing, including a map of the proposed single-member trustee district plan, and the reasons why the board believes that the plan satisfies the criteria set forth in subsection (2).

(4) After the public hearing is held, the board shall forward a copy of the proposed single-member trustee district plan to the secretary of state and the superintendent of public instruction for review and comment. The copy of the proposed plan must be accompanied by:

(a) a map indicating the circulation of the newspaper in which the notice required in subsection (3) was published;

(b) the published notice of the public hearing;

(c) a map of the proposed single-member trustee district plan; and

(d) a summary of any public comments to the board regarding the proposed plan.

(5) After receiving comments from the secretary of state and the superintendent of public instruction, the board of trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted by the board, it shall:

(a) inform the county superintendent of schools of its adoption;

(b) publish notice of the adoption in a newspaper of general circulation within the district, including identification of the boundaries of each new single-member trustee district and the implementation date of the plan; and

(c) file with the county clerk and recorder a certificate designating the boundary lines and limits of each single-member trustee district.

(6) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan.

(7) A change in the boundaries of a trustee district may not be made within 3 months preceding a regular school election ~~day as provided in 20-3-304~~.

(8) If the board receives a petition signed by 10% or more of the qualified electors of the school district, the board shall submit the request to create a single-member trustee district to the electors who are qualified under 20-20-301 to vote ~~upon~~ *on* the request. The petition submitted to the board must:

(a) conform to the requirements of subsections (2)(a) and (2)(b);

(b) be forwarded to the secretary of state and the superintendent of public instruction for review and comment;

(c) include a map of the proposed single-member trustee district, identifying the boundaries of each new single-member trustee district and the implementation date of the district;

(d) be forwarded to the county clerk and recorder, designating the boundary lines and limits of each single-member trustee district; and

(e) include a plan for election and terms of trustees of the single-member district, who must be residents of the proposed district, and provide for the terms of successors to the board of trustees in a single-member trustee district approved by the electors.

(9) If the petition meets the requirements of subsection (8), the board shall call an election on the question of whether to create a single-member trustee district. The election must be held at the next school election scheduled pursuant to 20-20-105 and must be conducted in the manner prescribed by this title for school elections. The published notice must include a map and a description of the boundaries of the proposed district.

(10) If a majority of the votes cast at the election approve the creation of a single-member trustee district, the election administrator shall, within 10 days of receipt of the official canvass of the result, certify that the district is formed.

(11) When a trustee position becomes vacant in a single-member district, the position must be filled in accordance with the provisions of 20-3-309, except that the position must be filled by a person who resides within the single-member district."

Section 207. Section 20-3-338, MCA, is amended to read:

"20-3-338. Trustees elected by single-member district. (1) At each ~~annual election provided for in 20-3-304~~ *regular school election*, each trustee candidate in a single-member trustee district must be a qualified elector of the trustee district and have resided in the trustee district to be represented for at least 1 year prior to becoming a candidate for the trustee position.

~~(2) Nomination of trustee candidates under the provisions of 20-3-305 and 20-3-344 must be by electors of the trustee district.~~

~~(3)~~*(2)* The election of each trustee must be submitted to the electors in the trustee district who are qualified to vote under the provisions of 20-20-301."

Section 208. Section 20-3-341, MCA, is amended to read:

"20-3-341. Number of trustee positions in elementary districts — transition. The number of trustee positions in each elementary district shall vary according to the district's classification, as established by 20-6-201:

(1) There must be seven trustee positions in a first-class elementary district.

(2) There must be five trustee positions in a second-class elementary district; however, ~~upon~~ *on* a majority vote of the board of trustees, the number may be increased to seven trustee positions at the next trustee election~~, provided that~~ *if* notice of the action of the board of trustees is published by the clerk of the district in a newspaper of general circulation in the county prior to January 1 of the year of the trustee election. The board of trustees may reduce the number of trustee positions from seven to five upon receiving a petition for that purpose from at least 10 qualified electors of the district.

(3) There must be three trustee positions in a third-class elementary district; however, ~~upon~~ *on* a majority vote of the board of trustees, the number may be increased to five trustee positions at the next trustee election~~, provided that~~ *if* notice of the action of the board of trustees is published by the clerk of the district in a newspaper of general circulation in the county prior to January 1 of

the year of the trustee election. The board of trustees may reduce the number of trustee positions from five to three upon receiving a petition for that purpose from at least 10 qualified electors of the district.

(4) (a) If the number of trustee positions in a second-class elementary district is decreased from seven to five in accordance with the provisions of subsection (2), one position is eliminated at the time of the first subsequent *regular* school election and one position is eliminated at the next *regular* school election.

(b) If the number of trustee positions in a third-class elementary district is decreased from five to three in accordance with the provisions of subsection (3), one position is eliminated at the time of the first subsequent school election when two trustee positions would have been filled and one position is eliminated at the next school election when two trustee positions would have been filled."

Section 209. Section 20-9-426, MCA, is amended to read:

"20-9-426. Preparation and form of ballots for bond election. (1) The school district shall cause ballots to be prepared for all bond elections~~, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots must be prepared for each purpose~~.

~~(2) For bond elections that are not held in conjunction with a school election, the ballots for absentee voting must be printed and made available at least 30 days before the bond election.~~

~~(3)~~*(2)* All ballots must be substantially in the following form:

OFFICIAL BALLOT SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "BONDS—NO".

Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, oil and natural gas revenue, oil and natural gas revenue for which a tax deficiency is pledged, or impact aid revenue) bonds of this school district in the amount of ..... dollars ($ .....), payable semiannually, during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election)?

☐ BONDS — YES.

☐ BONDS — NO."

Section 210. Section 20-9-428, MCA, is amended to read:

"20-9-428. Determination of approval or rejection of proposition at bond election. (1) When the trustees canvass the vote of a school district bond election under the provisions of 20-20-415, they shall determine the approval or rejection of the school bond proposition in the following manner:

(a) Except as provided in subsection (1)(c), if the school district bond election is held at a regular school election or at a special election called by the trustees, the trustees shall:

(i) determine the total number of electors of the school district who are qualified to vote under the provisions of 20-20-301 from the list of electors supplied by the county registrar for the school bond election;

(ii) determine the total number of qualified electors voting at the school bond election from the tally sheets for the election; and

(iii) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (1)(a)(ii) by the amount determined in subsection (1)(a)(i).

(b) When the calculated percentage in subsection (1)(a)(iii) is:

(i) 40% or more, the school bond proposition is approved and adopted if a majority of the votes were cast in favor of the proposition, otherwise it is rejected;

(ii) more than 30% but less than 40%, the school bond proposition is approved and adopted if 60% or more of the votes were cast in favor of the proposition, otherwise it is rejected; or

(iii) 30% or less, the school bond proposition is rejected.

(c) If the school district bond election is held ~~at a general election, at~~ *in conjunction with* an election that is conducted by mail ballot, as provided in Title 13, chapter 19, or ~~at a special election that is held~~ in conjunction with a ~~regular~~ *general* or primary election, the determination of the approval or rejection of the bond proposition is made by a majority of the votes cast on the issue.

(2) If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of the proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for the school district bond election."

Section 211. Section 20-9-471, MCA, is amended to read:

"20-9-471. Issuance of obligations — authorization — conditions. (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, electrical systems, and conservation measures as defined in 90-4-1102;

(c) any other expenditure that the district is otherwise authorized to make, subject to subsection (4), including the payment of settlements of legal claims and judgments; and

(d) the costs associated with the issuance and sale of the obligations.

(2) The term of the obligation, including an obligation for a qualified energy project, may not exceed 15 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to reduce energy use in a school facility and from which the resulting energy cost savings are projected to meet or exceed the debt service obligation for financing the project, as determined by the department of environmental quality.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of that principal and interest.

(4) Except as provided in 20-9-502 and 20-9-503, the proceeds of the obligation may not be used to acquire real property or construct a facility unless:

(a) the acquisition or construction project does not constitute more than 20% of the square footage of the existing real property improvements made to a facility containing classrooms;

(b) the 20% square footage limitation may not be exceeded within any 5-year period; and

(c) the electors of the district approve a proposition authorizing the trustees to apply for funds through the board of investments for the construction project. The proposition must be approved at ~~a special or regular~~ *an* election *held* in accordance with all of the requirements of 20-9-428, except that the proposition is considered to have passed if a majority of the qualified electors voting approve the proposition.

(5) The school district may not submit for a vote of the electors of the district a proposition to impose a levy to pay the principal or any interest on an obligation that is payable from the conservation-related cost savings under energy performance contracts as defined in 90-4-1102.

(6) The obligation must state clearly on its face that the obligation is not secured by a pledge of the school district's taxing power but is payable from amounts in its general fund or other legally available funds.

(7) An obligation issued is payable from any legally available fund of the district and constitutes a general obligation of the district.

(8) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium and ~~upon~~ *on* any other terms and conditions that the trustees determine to be in the best interests of the district.

(9) The principal amount of the obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

Section 212. Section 20-15-203, MCA, is amended to read:

"20-15-203. Call of community college district organization election — proposition statement. (1) A petition for the organization of a community college district must be presented to the ~~regents~~ *the county election administrator responsible for conducting elections pursuant to 20-15-208*. The ~~regents~~ *county election administrator* shall *notify the regents of the petition and* examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.

(2) If the ~~regents determine~~ *county election administrator determines* that the petition satisfies the requirements, the ~~regents shall order the elementary districts encompassed by the proposed community college district to~~ *county election administrator shall notify the regents and* conduct an election on the community college district organization proposition. The election must be held on the next regular school election day~~, except that an election required by a petition received by the regents~~ *that, pursuant to [section 4(4)], is not* less than ~~60~~ *85* days ~~before the regular school election day must be held at the regular school election in the following school fiscal year~~ *after the order*.

(3) At the election the proposition must be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of .... (elementary districts must be listed by county), State of Montana, a community college district for the offering of 13th- and 14th-year courses, to be known as the Community College District of ...., Montana, under the provisions of the laws authorizing community college districts in Montana, as requested in the petition filed with the ~~Board of Regents at Helena, Montana,~~ *county election administrator* on the .... day of ...., 20...?

☐ FOR organization.

☐ AGAINST organization."

Section 213. Section 20-15-204, MCA, is amended to read:

"20-15-204. Election of trustees — districts from which elected — terms of office. (1) ~~The regents~~ *Pursuant to 20-15-208, the board of regents shall call and the county election administrator* shall ~~provide for~~ *conduct* the election of trustees of the proposed community college district at the *same time as the* election *to be* held for the approval of ~~its~~ *the community college district's* organization.

(2) Seven trustees ~~shall~~ *must* be elected at large, except that ~~should~~ *if* there ~~be~~ *is* in ~~such~~ *the* proposed community college district one or more high school districts or part of a high school district within the community college district with more than 43% and not more than 50% of the total population of the proposed district, as determined by the last census, then each such district or part of district shall elect three trustees and the remaining trustees ~~shall~~ *must* be elected at large from the remainder of the proposed community college district. Should any ~~such~~ high school district or ~~such~~ part of a high school district *within the community college district* have more than 50% of the population of the proposed district, then four trustees ~~shall~~ *must* be elected from ~~such~~ *that* high school district or ~~such~~ part of *a* high school district and ~~three~~ *the remaining* trustees *must be elected* at large from the remainder of the proposed community college district.

~~(2)~~*(3)* If the trustees are elected at large throughout the entire proposed community college district, the three receiving the greatest number of votes ~~shall~~ *must* be elected for a term of 3 years, the two receiving the next greatest number of votes, for a term of 2 years, and the two receiving the next greatest number of votes, for a term of 1 year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the three who shall serve for 3 years, the two who shall serve for 2 years, and the two who shall serve for 1 year. Thereafter, all trustees elected shall serve for terms of 3 years each."

Section 214. Section 20-15-207, MCA, is amended to read:

"20-15-207. Notice of organization election. Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district ~~shall~~ *must* be given by the ~~regents, by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for 3 consecutive weeks, the last insertion to be no more than 1 week prior to the date of the election~~ *county election administrator in accordance with 13-1-108*."

Section 215. Section 20-15-208, MCA, is amended to read:

"20-15-208. Conduct of ~~election~~ *community college district elections — cost.* *(1)* ~~The~~ *An* election for the organization of the community college district and the *concurrent* election of trustees for ~~such~~ *the proposed* community college district ~~shall~~ *must* be ~~conducted, in accordance with the school election laws, by the trustees of the elementary districts ordered to call such election~~ *supervised by the board of regents acting as the governing body for the election and conducted by the county election administrator*.

(2) For any community college district election held subsequent to the initial election under subsection (1), the community college district's board of trustees is

the governing body for the election and the county election administrator shall conduct the election.

(3) If a proposed or existing community college district is within the boundaries of more than one county, the county election administrator of the county with the highest number of qualified electors in the proposed or existing community college district shall conduct the election.

(4) A community college district election must be conducted in accordance with [sections 1 through 5].

(5) The cost of conducting ~~such~~ *an initial community college district* election *under subsection (1)* ~~shall~~ *must* be ~~borne~~ *paid* by the ~~districts~~ *university system*."

Section 216. Section 20-15-209, MCA, is amended to read:

"20-15-209. Determination of approval or disapproval of proposition — subsequent procedures if approved. (1) To carry, the proposal to organize the community college district must receive a majority of the total number of votes cast~~, and the coordinator of community college districts, from the results certified and attested,~~. *The county election administrator* shall determine whether the proposal has received the majority of the votes cast for each county within the proposed district and shall certify the results to the regents. Approval for the organization of a new community college district must be granted at the discretion of the legislature acting ~~upon~~ *on* the recommendation of the regents. If the certificate of the ~~coordinator of community college districts~~ *election* shows that the proposition to organize the community college district has received a majority of the votes cast in each county within the proposed district, the regents may make an order declaring the community college district organized and cause a copy of the order to be recorded in the office of the county clerk and recorder in each county in which a portion of the new district is located. If the proposition carries, the ~~regents~~ *county election administrator* shall determine which candidates have been elected trustees. If the proposition to organize the community college district fails to receive a majority of the votes cast, a tabulation may not be made to determine the candidates elected trustees.

(2) Within 30 days of the date of the organization order, the regents shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the elected trustees of their membership and of the organization meeting. The notification must designate a temporary presiding officer and secretary for the purposes of organization."

Section 217. Section 20-15-219, MCA, is amended to read:

"20-15-219. Qualifications for office of trustee — ~~nominating petitions~~ *declaration of candidacy*. (1) Any person who is qualified to vote in a community college district under the provisions of 20-20-301 is eligible for the office of community college trustee.

(2) ~~Any five electors of a community college district qualified under the provisions of 20-20-301 may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. A nominating petition containing the signatures of the five electors and the name of each person nominated for~~ *A declaration of* candidacy must be submitted to the ~~election clerk designated by the board of trustees no less than 40 days before the regular school election day at which the person is to be a candidate~~ *county election administrator within the time period specified in 20-3-305(2).* If there are different terms to be filled, the term for which ~~each~~ *the* candidate is ~~nominated~~ *filing* must ~~also~~ be indicated *on the declaration*."

Section 218. Section 20-15-221, MCA, is amended to read:

"20-15-221. Election of trustees after organization of community college district. (1) After organization, the registered electors of the community college district qualified to vote under the provisions of 20-20-301 shall annually vote for trustees on the regular school election day provided for in ~~20-3-304~~ *20-20-105(1)*. The election must be conducted in accordance with the election provisions of this title whenever the provisions are made applicable to community college districts. ~~Elections~~ *Pursuant to 20-15-208, the elections* must be conducted by the ~~component elementary school districts within the community college district upon~~ *county election administrator on* the order of the board of trustees of the community college district. The order must be transmitted to the appropriate trustees ~~not less than 40~~ *at least 85* days prior to the regular school election day.

(2) Notice of the community college district trustee election must be given ~~by the board of trustees of the community college district by publication in one or more newspapers of general circulation within each county, not less than once a week for 2 consecutive weeks, with the last insertion to be no more than 1 week prior to the date of the election. This notice is in addition to the election notice to be given by the trustees of the component elementary districts under the school election laws~~ *as provided in 13-1-108*.

(3) If trustees are elected other than at large throughout the entire district, then only those qualified ~~voters~~ *electors* within the area from which the trustee or trustees are to be elected may cast their ballots for the trustee or trustees from that area. ~~In addition to the nominating petition required by 20-15-219(2), all candidates~~

(4) Candidates for the office of trustee shall file their declarations of candidacy with the ~~secretary of the board of trustees of the community college district not less than 40 days prior to the date of election~~ *county election administrator within the time period specified in 20-3-305(2).* ~~If an electronic voting system is not used in the component elementary school district or districts that conduct the election, the board of trustees of the community college district shall cause ballots to be printed and distributed for the polling places in the component districts at the expense of the community college district, but in all other respects the elections must be conducted in accordance with the school election laws.~~

(5) All costs incident to election of the community college trustees must be borne by the community college district, including one-half of the compensation of the judges for the school elections. ~~However, if the election of the community college district trustees is the only election conducted, the community college district shall compensate the district for the total cost of the election.~~"

Section 219. Section 20-15-222, MCA, is amended to read:

"20-15-222. Results of election — qualifying oath — term of office. (1) When the board of trustees of the community college district has received all *of* the certified results of the election from the ~~component elementary districts~~ *county election administrator*, the then-qualified members of the board of trustees of the community college district shall tabulate the results received, shall declare and certify the candidate or candidates receiving the greatest number of votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at the election.

(2) (a) A person who receives a certificate of election as a community college trustee may not assume the trustee position until the person has qualified by

taking an oath of office prescribed by the constitution of Montana at the next regularly scheduled meeting of the board of trustees after receipt of the certificate of election.

(b) If the elected person does not qualify in accordance with this requirement, another person must be appointed in a manner provided by 20-15-223 and shall serve until the next regular *school* election.

(3) After a person has qualified for a trustee position, the person shall hold the position for the term of the position and until a successor has been elected or appointed and has been qualified."

Section 220. Section 20-15-224, MCA, is amended to read:

"20-15-224. Board of trustees — organization, meetings, quorum, mileage, and seal. (1) (a) The trustees of each community college district shall annually organize as a governing board of the community college district at the next regularly scheduled meeting after the regular *school* election day and after the issuance of the election certificate to the newly elected trustees.

(b) In order to organize, the trustees of the community college district must be given notice by the coordinator of the time and place where the organization meeting will be held, and at the meeting they shall choose one of their members as presiding officer and as secretary. In addition, the trustees may employ or appoint a competent person who is not a member of the trustees as the clerk of the community college district.

(c) The presiding officer and secretary of the trustees of the community college district shall serve until the next organization meeting. The presiding officer shall preside at all meetings of the trustees in accordance with the customary rules of order. The presiding officer shall perform the duties prescribed by this title and any other duties that normally pertain to the office.

(2) The board of trustees of the community college shall hold monthly meetings within the community college district on the day of the month the trustees may set. The presiding officer and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district if in its judgment necessity requires the meeting. The secretary of the board shall give each member a 48-hour written notice of all special meetings.

(3) A majority of the board of trustees constitutes a quorum for the transaction of business, except that a contract may not be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership votes in favor of the action.

(4) A member of the board of trustees must receive mileage, as provided for in 2-18-503, for the distance necessarily traveled in going to and returning from the place of the meeting and the member's place of residence each day that the trip is actually made.

(5) The board shall keep a common seal with which to attest its official acts."

Section 221. Section 20-15-225, MCA, is amended to read:

"20-15-225. Powers and duties of trustees. (1) The trustees of a community college district shall, subject to supervision by the board of regents:

(a) have general control and supervision of the community college;

(b) adopt rules, not inconsistent with the constitution and the laws of the state, for the government and administration of the community college;

(c) grant certificates and degrees to the graduates of the community college;

(d) keep a record of their proceedings;

(e) when not otherwise provided by law, have control of all books, records, buildings, grounds, and other property of the community college;

(f) receive from the state board of land commissioners; other boards, agencies, or persons; or the government of the United States all funds, income, and other property the community college may be entitled to receive or accept and use and appropriate the property for the specific purpose of the entitlement, grant, or donation;

(g) have general control of all receipts and disbursements of the community college;

(h) appoint and dismiss a president and faculty for the community college; appoint and dismiss any other necessary officers, agents, and employees; fix their compensation; and set the terms and conditions of their employment;

(i) administer the tuition provision and otherwise govern the students of the community college district in accordance with the provisions of this chapter;

(j) call ~~and conduct~~ the elections of the district in accordance with the school election chapter of this title;

(k) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of this title;

(l) establish employee benefits, other than retirement benefits, and fix their limits in accordance with 2-18-701 through 2-18-704; and

(m) participate in district boundary change actions in accordance with the provisions of the district organization chapter of this title.

(2) The trustees of a community college district shall hold in trust all real and personal property of the district for the benefit of the college and students.

(3) The trustees of a community college district may enter into agreements with the western interstate commission for higher education, or similar intrastate, interstate, or international agreements, for the benefit of the district and students."

Section 222. Section 20-15-231, MCA, is amended to read:

"20-15-231. Annexation of territory of districts to community college district. (1) Whenever 10% of the registered electors of an elementary district or districts of a county that is contiguous to the existing community college district petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the community college district may order an annexation election in the area defined by the petition. ~~Such~~ *The* election ~~shall~~ *must* be held on the next ~~general~~ *school* election day *that, pursuant to [section 4], is at least 85 days after the order for the election*.

(2) (a) Prior to the election on the question of annexation, the trustees shall adopt a plan that includes:

(i) a schedule that provides for the orderly transition from the existing trustee representation to the representation required by 20-15-204, with such transition period not to exceed 3 years from the date of the election on the question of annexation;

(ii) provisions relating to the assumption or nonassumption of existing community college district bonded indebtedness by the annexed area and provisions relating to the responsibilities of the annexed area for any bonded indebtedness if it withdraws from the district; and

(iii) a procedure by means of which the electors of the annexed area may withdraw the annexed area from the community college district and the conditions of such withdrawal.

(b) The plan required by this subsection (2) may not be changed by the trustees without the approval of a majority of the electors of the annexed area voting on the question. The bonding provisions of the plan set forth pursuant to subsection (2)(a)(ii) may not be changed.

(3) The election ~~shall~~ *must* be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election *under 20-15-203*, except that the board of trustees of the community college shall ~~perform the requirements of the board of regents~~ *act as the governing body for the election* and ~~there shall~~ *the election may* not ~~be~~ *include* an election of the board of trustees of the community college.

(4) The proposition on the ballot ~~shall~~ *must* be as follows:

Shall school districts .... be annexed to and become a part of the Community College District of ...., Montana?

☐ FOR annexation.

☐ AGAINST annexation.

(5) To carry, the proposals to annex must receive a majority of the total votes cast ~~thereon~~ *at the election*. ~~Upon~~ *On* receipt of the certified results of the election from the ~~elementary districts encompassed in the proposed area to be annexed~~ *county election administrator*, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the canvassing resolution ~~shall~~ *must* be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and, ~~upon~~ *on* such filing, the area to be annexed shall then become a part of the community college district."

Section 223. Section 20-15-241, MCA, is amended to read:

"20-15-241. Community college service regions — creation. (1) The governing body of an elementary school district, high school district, county, or municipality not within a community college district may designate itself a community college service region, as provided in this section.

(2) A service region may be designated only if, within 12 months preceding any designation, the following conditions are met:

(a) the service plan required by subsection (3) is available;

(b) the board of trustees of the community college district that will offer services within the region has approved the designation;

(c) the electors within the region have approved the designation by a majority of votes cast on the question in an election held on a ~~general~~ *regular school* election day *in accordance with 20-15-208*; and

(d) the board of regents has approved the designation.

(3) (a) At least 90 days prior to the granting of any of the approvals listed in subsections (2)(b) through (2)(d), a written plan must be made available that:

(i) details the services the community college district will offer within the region;

(ii) details who will be eligible to use the services and the charges that will be made to users;

(iii) indicates the facilities that will be used to house the services;

(iv) lists the direct and indirect costs of the services and the apportionment of those costs between the community college district and the governing body designating the service region;

(v) estimates the number of persons expected to use the services within the region; and

(vi) estimates the mill levy necessary to fund the service region and estimates the impact of the election on a home valued at $100,000 and a home valued at $200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values. The plan may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

(b) The plan may be revised jointly by the region governing body, board of regents, and the board of trustees of the community college district as a revision may be necessary.

(4) A designation is effective for 5 years and after 5 years is effective unless rescinded by a majority of electors casting votes on the question in an election held on any general election day following expiration of the 5-year period. The question on rescission must be put on the ballot when requested at least 90 days prior to the election by the governing body designating the service region, by the community college board, or by a petition signed by 20% of the registered electors within the service region. The rescission is effective at the end of the first full academic year following the election rescinding the district designation."

Section 224. Section 20-20-105, MCA, is amended to read:

"20-20-105. Regular school election day and special school elections — limitation — exception. (1) Except as provided in subsection ~~(4)~~ *(5)*, the first Tuesday after the first Monday ~~of~~ *in* May of each year is the regular school election day.

(2) Except as provided in subsections ~~(3)~~ *(4)* and ~~(4)~~ *(5)*, a proposition requesting additional funding under 20-9-353 may be submitted to the electors only once each calendar year on the regular school election day.

~~(2)~~*(3)* Subject to the provisions of subsection ~~(1)~~ *(2)*, ~~special~~ *other* school elections may be conducted at times determined by the trustees.

~~(3)~~*(4)* In the event of an unforeseen emergency occurring on the date scheduled for the funding election pursuant to subsection ~~(1)~~ *(2)*, the district will be allowed to reschedule the election for a different day of the calendar year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).

~~(4)~~*(5)* In years when the legislature meets in regular session or in a special session that affects school funding, the trustees may order ~~the~~ *an* election on a date other than the regular school election day in order for the electors to consider a proposition requesting additional funding under 20-9-353."

Section 225. Section 20-20-106, MCA, is amended to read:

"20-20-106. Poll hours. (1) The polls for any school election in any district shall open not later than noon. The trustees may order the polls to open earlier, but no earlier than 7 a.m.

(2) If the school election is held on the same day as an election held by a political subdivision ~~under 13-1-104(3)~~ and at the same polling place *pursuant to 13-1-401*, the polls ~~shall~~ *must* be opened and closed at the times required for the school election.

(3) If the school election is held on the same day as a general or primary election, the polls ~~shall~~ *must* be opened and closed at the times required for the general or primary election *under 13-1-106*.

(4) Once opened, the polls ~~shall~~ *must* be kept open continuously until 8 p.m., except that whenever all the registered electors at any poll have voted, the poll ~~shall~~ *must* be closed immediately."

Section 226. Section 20-20-201, MCA, is amended to read:

"20-20-201. Calling of school election. (1) At least ~~40~~ *70* days before any school election, the trustees of a district~~,~~ *or other entity or official authorized by law to call a school election,* shall call the school election by resolution, stating the date and purpose of ~~the~~ *each* election *and whether, pursuant to 13-19-202, any election is requested to be by mail*~~, and shall conduct it in accordance with the procedures required by law when:~~

~~(a) an election must be held on the regular school election day;~~

~~(b) in their discretion, the trustees order an election for a purpose authorized by law;~~

~~(c) the county superintendent orders an election in accordance with the law authorizing an order;~~

~~(d) the board of public education orders an election in accordance with the law authorizing an order;~~

~~(e) the county commissioners order an election in accordance with the law authorizing an order;~~

~~(f) the board of trustees of a community college district orders an election in accordance with the law authorizing an order, in which case the community college district shall bear its share of the cost of the election; or~~

~~(g) a school election is required by law under any other circumstances~~.

(2) *To enable the county election administrator to manage voter registration and prepare the lists of registered electors:*

(a) ~~The~~ *the* resolution calling ~~any~~ *for a* school election must be transmitted to the county election administrator no later than ~~35~~ *3* days ~~before the election in order to enable the administrator to close the registration and prepare the lists of registered electors as required by school election laws~~ *after the resolution is passed; and*

(b) if the election is to be conducted by mail, the school clerk must also transmit to the county election administrator a copy of the written plan required under 13-19-205 as soon as the plan has been approved by the secretary of state."

Section 227. Section 20-20-204, MCA, is amended to read:

"20-20-204. Election notice. ~~(1) (a) When the trustees of a district call a school election, they shall give notice of the election not less than 20 days or more than 30 days before the day of the election by:~~

~~(i) publication of the notice in a newspaper of general circulation if there is one in the district; and~~

~~(ii) posting notices in three public places in the district, provided that in incorporated cities and towns, at least one notice must be posted at a public place in each ward or precinct.~~

~~(b) Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication of the school election notice in a radio or television broadcast, the trustees may cause that notification to be made~~ *(1) (a) When the trustees of a district call a school election, they shall*

give notice of the election not less than 10 days or more than 40 days before the election by:

(i) publishing a notice in a newspaper of general circulation if there is one in the district;

(ii) posting notices in three public places in the district; and

(iii) posting notice on the district's website, if the district has an active website, for 10 days prior to the election.

(b) Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication or broadcast of the school election notice by any recognized media organization in the district, the trustees may cause the supplemental notification to be made.

(2) The notice of a school election, unless otherwise required by law, must specify:

(a) the date and polling places of the election;

(b) the hours that the polling places will be open;

(c) each proposition to be considered by the electorate;

(d) if there are trustees to be elected, the number of positions subject to election and the length of term of each position; and

(e) where and how absentee ballots may be obtained.

(3) If more than one proposition is to be considered at the same school election, each proposition must be set apart and separately identified in the same notice or published in separate notices."

Section 228. Section 20-20-311, MCA, is amended to read:

"20-20-311. ~~Closure of~~ *Voter* registration. ~~Registration~~ *Voter registration* for school elections shall ~~close for 30 days before any school election, but it shall not be necessary to publish any notice of such closing of registration~~ *be as provided in Title 13, chapter 2*."

Section 229. Section 20-20-312, MCA, is amended to read:

"20-20-312. Listing of registered electors — *late registration.* *(1)* After closing *regular* registration, the county election administrator shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place ~~shall~~ *must* be prepared in the format of a precinct register book.

(2) An elector may register as provided in 13-2-304 to vote in a school election after the close of regular registration."

Section 230. Section 20-20-401, MCA, is amended to read:

"20-20-401. Trustees' election duties — ballot certification. (1) The trustees are the general supervisors of school elections unless the trustees request and the county election administrator agrees to conduct a school election under 20-20-417.

(2) Not less than ~~25~~ *30* days before an election, the clerk of the district shall ~~prepare~~ *certify the ballot by preparing* a certified list of the names of all candidates entitled to be on the ballot *subject to 13-37-126* and *certifying* the official wording for each ballot issue. The clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and available at least 20 days before the election~~, except as provided in 20-9-426(2) for a bond election not held in conjunction with a school election~~. Names of candidates on school election ballots need not be rotated.

(3) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the ballots and supplies necessary to conduct the election."

Section 231. Section 20-20-417, MCA, is amended to read:

"20-20-417. Request for county election administrator to conduct election. (1) By June 1 of each year, the trustees of a district may request the county election administrator to conduct certain school elections during the ensuing school fiscal year. *The request must be made by a resolution of the board of trustees.*

(2) Whenever the county election administrator agrees to conduct a school election, the administrator shall:

(a) perform the duties imposed on the trustees and the clerk of the district for school elections in 20-20-203, 20-20-313, and 20-20-401; *and*

~~(b) conduct the election in accordance with the provisions of Title 13, chapters 13 and 15; and~~

~~(c)~~*(b)* deliver to the trustees, for the purpose of canvassing the vote, the certified tally sheets and other items as provided in 13-15-301.

(3) Whenever the trustees request *and* the county election administrator *agrees* to conduct a school election, the school district shall pay the costs of the election as provided in 13-1-302."

Section 232. Section 22-1-304, MCA, is amended to read:

"22-1-304. Tax levy — special library fund — bonds. (1) Subject to 15-10-420, the governing body of a city or county that has established a public library may levy in the same manner and at the same time as other taxes are levied a tax in the amount necessary to maintain adequate public library service.

(2) (a) The governing body of a city or county may by resolution submit the question of imposing a tax levy to a vote of the qualified electors at an election as provided in 15-10-425. The resolution must be adopted at least ~~75~~ *85* days prior to the election at which the question will be voted on*, and, pursuant to the deadline in [section 4], the election may not be held less than 85 days after the resolution is adopted*.

(b) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election for the purpose of imposing a mill levy, the governing body shall submit to a vote of the qualified electors at ~~the next~~ *an* election ~~or at a special election,~~ *conducted* as provided in 15-10-425~~,~~ the question of imposing the mill levy. The petition must be delivered to the governing body at least ~~90~~ *85* days prior to the election at which the question will be voted on.

(3) The proceeds of the tax constitute a separate fund called the public library fund and may not be used for any purpose except those of the public library.

(4) Money may not be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.

(5) Bonds may be issued by the governing body in the manner prescribed by law for the following purposes:

(a) building, altering, repairing, furnishing, or equipping a public library or purchasing land for the library;

(b) buying a bookmobile or bookmobiles; and

(c) funding a judgment against the library."

Section 233. Section 22-1-703, MCA, is amended to read:

"22-1-703. Election on creation of district. (1) The election on the question of whether to create a public library district must be conducted ~~as provided in Title 13~~ *in accordance with [sections 1 through 5]*.

(2) Only qualified electors residing within the proposed public library district may vote on the question of whether to create the district.

(3) The question of creating a public library district must be submitted to the electors in substantially the following form:

☐ FOR the creation of a public library district that may levy not more than ... mills of property tax for the operation of the district.

☐ AGAINST the creation of a public library district."

Section 234. Section 22-1-706, MCA, is amended to read:

"22-1-706. Election of board of trustees — compensation — removal — single-member trustee districts. (1) After appointment of the initial members of the board of trustees, all members must be elected by the electors of the public library district.

(2) The election of members to the board of trustees must be held in ~~conjunction with the annual school elections held pursuant to 20-3-304~~ *accordance with [sections 1 through 5]*.

(3) (a) A candidate for the office of trustee of the public library district must be a resident of the district and must ~~be nominated by petition, signed by at least five electors of the district and filed~~ *file a declaration of candidacy* with the office of the election administrator ~~not earlier than 135 days or later than 75 days prior to the election day~~ *within the time period specified in [section 2]*.

(b) If the district lies in more than one county, the ~~petition for nomination~~ *declaration of candidacy* must be presented to the election administrator ~~whose county contains the largest percentage of territory in the district~~ *who will be conducting the election pursuant to [section 5]*.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a ~~nomination petition~~ *declaration of candidacy* for a position. If a nomination petition is not filed for an office, the county governing body of the county ~~containing the largest percentage of the territory in the public library district~~ *conducting the election* shall appoint a member to fill the term. A person appointed pursuant to this subsection has the same term and obligations as a person elected to fill the office.

(5) The term of office of an elected board member begins on the date that the board member is elected ~~and qualified~~. The term of office of an elected member is 4 years, except that a simple majority of the members of the first elected board shall serve a term of 2 years, with the minority of the board serving terms of 4 years. The members serving 2-year terms must be selected by lot.

(6) A vacancy in the office of a member must be filled by appointment by the remaining members of the board. The term of the appointed member expires upon the election ~~and qualification of an elected~~ *of a* successor or upon the election of a member to fill the unexpired term of the vacant office. The election must be held ~~at the next scheduled school election held pursuant to 20-3-304~~ *in accordance with [sections 1 through 5]*.

(7) Members of the board of trustees serve without compensation.

(8) A trustee may be removed from office by a court of competent jurisdiction pursuant to state law governing the removal of elected officials. If charges are brought against a trustee and if good cause is shown, the governing body of the county ~~containing the largest percentage of territory in the public library district~~ *that conducted the election pursuant to [section 5]* may suspend the trustee until the charges can be heard in a court of competent jurisdiction.

(9) (a) If the trustees determine that it is in the best interest of the electors of the public library district, they shall:

(i) propose the creation of a single-member trustee district plan with districts that are as compact in area and as equal in population as possible;

(ii) schedule and hold a public hearing on the plan; and

(iii) publish a notice of the public hearing as provided in 7-1-2121.

(b) After the public hearing is held, the trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted, the trustees shall publish notice of its adoption as provided in 7-1-2121.

(c) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan, and the election of each member must be submitted to the electors of the trustee district in which the candidate resides."

Section 235. Section 22-1-708, MCA, is amended to read:

"22-1-708. Public library district budget — property tax levy. (1) The board of trustees shall annually prepare a budget for the ensuing fiscal year and present the budget to the governing body of each county with territory in the public library district at the regular budget meetings as prescribed in Title 7, chapter 6, part 40, and certify the amount of money necessary for the operation of the district for the ensuing fiscal year.

(2) Subject to 15-10-420, the county governing body shall, annually at the time of levying county taxes, fix and levy a tax on all taxable property within the public library district sufficient to raise the amount certified by the board of trustees and approved by the electors. The tax levied may not in any year exceed the maximum amount approved by the electorate ~~in~~ *pursuant to* 22-1-703 or 22-1-709."

Section 236. Section 22-1-709, MCA, is amended to read:

"22-1-709. Election to change maximum property tax mill levy. (1) The maximum property tax mill levy authorized for the operation of a public library district may be changed by an election on the question of changing the maximum mill levy.

(2) A vote on the question of raising or lowering the maximum property tax mill levy in the public library district may be initiated by:

(a) a petition signed by not less than 15% of the electorate of the district; or

(b) a resolution of the board of trustees.

(3) The petition must set forth the proposed new maximum mill levy for the operation of the district.

(4) ~~Upon~~ *On* receipt of a petition for a change in the maximum mill levy, certified by the county clerk as sufficient under this section, or ~~upon~~ *on* receipt of a resolution for a change adopted by the board of trustees, the county governing body shall submit to the electorate of the public library district, at *an election held in accordance with [sections 1 through 5]* ~~the next regular or primary election~~, a ballot question on changing the maximum mill levy. ~~The election~~

~~must be held as provided in Title 13.~~ The question must be submitted to the electors of the district in substantially the following form:

☐ FOR changing the authorized maximum property tax mill levy for the operation of the public library district from .... to ....

☐ AGAINST changing the authorized maximum property tax mill levy for the operation of the public library district."

Section 237. Section 22-1-710, MCA, is amended to read:

"22-1-710. Dissolution of public library district. (1) A public library district may be dissolved after an election on the question of dissolving the district. The process of dissolving the district may be initiated by a petition of 15% of the electorate of the district or by a resolution of intent to dissolve the district adopted by either the board of trustees or the governing body of the county in which territory of the district is located.

(2) ~~Upon~~ *On* receipt of a petition that has been certified by the county clerk as sufficient under this section or upon adoption of a resolution of intent, the county governing body shall hold a public hearing on the question of dissolving the public library district. Notice of the hearing must be published as provided in 7-1-2121.

(3) At the public hearing, the county governing body shall hear testimony of interested persons regarding the dissolution of the public library district. After the public hearing, the county governing body may either submit the question of dissolving the district to the electorate of the district or it may call for a public hearing on the question of altering the boundaries of the district. If the county governing body calls for a public hearing on the question of altering the boundaries of the district by the withdrawal of territory, it shall publish notice of the hearing as provided in 7-1-2121. The notice must state the boundaries of the area proposed to be withdrawn from the district. After hearing testimony at the hearing, the county governing body may submit the question of either dissolving the district or altering the district by the withdrawal of specified territory from the district to the electorate of the district.

(4) The question must be submitted by a resolution calling for an election on either dissolving the public library district or altering the boundaries of the district by the withdrawal of land from the district. The county governing body shall schedule *and conduct* the election in ~~conjunction with any other regularly scheduled election. The election on the question must be conducted as provided in Title 13~~ *accordance with [sections 1 through 5]*.

(5) The question of withdrawal of territory under this section must be voted ~~upon~~ *on* separately by the electorate of the territory to be withdrawn and the electorate of the balance of the territory of the public library district. The question fails unless a simple majority of those voting on the question in each of the two territories authorize altering the district boundary. If the question passes, the boundary alteration is effective the following January 1. If the question fails, the county governing body shall by resolution call for an election on the question of dissolving the district."

Section 238. Section 76-5-1106, MCA, is amended to read:

"76-5-1106. Requirements to change project boundaries — *election*. The boundaries of a project once established shall not be extended without ~~the vote of~~ *approval by* a majority of the electors residing in the area proposed to be annexed. ~~Such electors are to be determined, and such~~ *The* election ~~is to~~ *must* be held in accordance with the provisions of ~~76-5-1117~~ *[sections 1 through 5]*."

Section 239. Section 76-15-303, MCA, is amended to read:

"76-15-303. ~~General election~~ *Election of supervisors* — election by acclamation — appointment. (1) *An election for supervisors must be conducted in accordance with [sections 1 through 5].*

(2) All qualified electors within the district are eligible to vote in the election.

~~(2)~~*(3)* ~~Except as provided in subsection (5), the~~ *The* candidate or, if more than one supervisor position is to be filled by the ~~general~~ election, the candidates who receive the largest number, respectively, of the votes cast in the election are the elected supervisors for the district.

~~(3)~~*(4)* ~~In the general election, the~~ *The* names of the ~~individuals nominated~~ *candidates* must be arranged on ballots as prescribed in 13-12-205.

~~(4) The election administrator in each county shall prepare suitable nonpartisan ballots or place the names of candidates on the regular general election ballot in the same manner as other nonpartisan candidates for the election of supervisors. The ballots must be delivered to the election judges in those precincts that contain registered electors prior to each general election and each primary election, if necessary. The election judges and other election officials in the precincts shall submit the ballots to qualified electors, conduct the election, and tabulate the results of the election in the manner provided in Title 13.~~

~~(5) (a) Except as provided in subsection (5)(b), if the number of candidates nominated is equal to or less than the number of positions to be elected, the election administrator shall give notice that an election will not be held.~~

~~(b) The governing body may require that an election be held if, not more than 10 days after the close of filing by candidates, the governing body passes a resolution to hold an election and notifies the election administrator.~~

~~(c) If an election is not held, the governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate has filed a nominating petition for the position, the governing body shall make an appointment to fill the position. Supervisors taking office pursuant to this subsection serve a term as if elected to the position.~~"

Section 240. Section 76-15-304, MCA, is amended to read:

"76-15-304. Election of supervisors. (1) Two supervisors shall be elected at the second general election following the organization or reorganization of the district and shall replace the two supervisors appointed by the department. Thereafter, a district shall alternately elect three and two supervisors at succeeding general elections.

(2) ~~Nominations for the election of supervisors shall be made as provided under 76-15-302 except that a nominating election shall be held if more than four candidates are nominated by petition when two supervisors are to be elected~~ *An election for supervisors must be conducted in accordance with [sections 1 through 5].*"

Section 241. Section 76-15-305, MCA, is amended to read:

"76-15-305. Transition to seven supervisors. (1) At the time of reorganization under 76-15-301(2), the department shall appoint~~:~~

~~(a) one supervisor for a term to coincide with the terms of those elected supervisors whose terms will expire after the next general election; and~~

~~(b) one supervisor for a term to coincide with the terms of those elected supervisors whose terms will expire after the general election following the next general election.~~*:*

(a) one supervisor for a term to coincide with the terms of those elected supervisors whose terms will expire after the next general election; and

(b) one supervisor for a term to coincide with the terms of those elected supervisors whose terms will expire after the general election following the next general election.

(2) The ~~supervisor positions held by the appointed supervisors become open for election at the time the terms expire. A district having seven supervisors shall alternately elect four and three supervisors at succeeding general elections~~ *supervisor positions held by the appointed supervisors become open for election at the time the terms expire. A district having seven supervisors shall alternately elect four and three supervisors at succeeding general elections*.

~~(3) Nominations for the election of supervisors in a district having seven supervisors must be made as provided in 76-15-302.~~

~~(4) The term of each elected supervisor is 4 years.~~

~~(5) The election administrator in each county having a seven-supervisor district shall conduct the election for that district in a manner similar to elections conducted for a district having five supervisors.~~"

Section 242. Section 76-15-311, MCA, is amended to read:

"76-15-311. Governing body of district. (1) If there are no incorporated municipalities that are completely within the boundaries of the district, the governing body of the district must consist of five elected supervisors unless the district has been reorganized pursuant to 76-15-301(2) and 76-15-305.

(2) If there are incorporated municipalities that are completely within the boundaries of the district, the governing body of the district must consist of seven supervisors as follows:

(a) The board of supervisors, in addition to five elected supervisors, must consist of two appointed supervisors, making a total of seven supervisors in those districts. The legislative bodies of the incorporated municipalities within the district shall appoint the two additional supervisors after consultation with the elected supervisors. ~~The term of office of the appointed supervisors is 3 years.~~

(b) Where there are two or more incorporated municipalities that are completely within the boundaries of a district, the two appointed supervisors shall represent all the municipalities and urban interests in the district. A municipality may not have more than one appointed supervisor residing in the municipality. The legislative bodies of the incorporated municipalities within the district shall agree on the persons appointed to serve as the appointed supervisors.

(3) If there are no incorporated municipalities that are completely within the boundaries of the district but a portion of one or more incorporated municipalities is within the boundaries of a district, the elected supervisors may pass a resolution to transition to a board of seven members consisting of five elected supervisors and two supervisors appointed by the legislative bodies of the partially included municipalities as provided in subsection (2).

(4) A supervisor appointed under subsection (2) or (3) may live outside the municipality the supervisor represents, but the supervisor must reside within the boundaries of the district.

(5) An elected supervisor must reside within the boundaries of the district.

(6) The board of supervisors may appoint associate supervisors it considers necessary to advise the board of supervisors on the operation of the conservation district as provided in part 4 of this chapter."

Section 243. Section 76-15-312, MCA, is amended to read:

"76-15-312. Term of office and vacancies. (1) *(a)* The term of office of each supervisor is 4 years, except ~~that the~~ *as provided in (1)(b).*

(b) The supervisors who are ~~first~~ appointed by the department *pursuant to 76-15-305* must be designated to serve for terms of 2 years from the date of their appointment*, after which the offices must be filled by election. A supervisor appointed pursuant to 76-15-311 shall serve a term of 3 years.*

(c) An elected supervisor holds office until a successor has been elected and has qualified.

(2) A vacancy is created when any of the following events occurs before the expiration of the term of the incumbent:

(a) death;

(b) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent is mentally ill;

(c) resignation;

(d) removal from office;

(e) unexcused absence from three consecutive regular meetings of the board of supervisors;

(f) ceasing to reside in the district;

(g) conviction of a felony or a violation of official duties; or

(h) the decision of a court declaring void the incumbent's election or appointment.

(3) For the purpose of subsection (2)(e), a majority vote of the board of supervisors may excuse a supervisor from attending a meeting.

(4) A vacancy occurring in the office of an elected supervisor must be filled by appointment by the remaining supervisors until the next ~~regular~~ election, when a successor must be elected to serve the unexpired term. *The election must be conducted in accordance with [sections 1 through 5] in the year following the appointment.*"

Section 244. Section 76-15-506, MCA, is amended to read:

"76-15-506. Bonds authorized — election. (1) Whenever a board of supervisors deems it necessary, it may issue bonds payable from revenues, assessments, or both, or the district may use other financing as provided for by this part and part 6 for the cost of works.

(2) The board of supervisors may call ~~a special election to vote upon the proposition of issuing the bonds or may submit the proposition as a special question at a regular or general~~ *an* election *to be held in accordance with [sections 1 through 5].*

(3) If from the returns of the election it appears that the majority of votes cast at ~~such~~ *the* election was in favor of and assented to the incurring of the indebtedness, then the board of supervisors may by resolution provide for the issuance of ~~such~~ *the* bonds.

~~(3)~~*(4)* The ~~authorization of such undertaking, the form, and content shall~~ *issuance of bonds must* be carried out in accordance with 7-7-4426~~, 7-7-4427,~~ and 7-7-4432 through 7-7-4435. ~~Validity~~ *The validity* of ~~such~~ *the* bonds, use of *the bond* revenue, and *the* refunding *of the bonds* ~~shall~~ *must* be *done* in

accordance with the provisions of 7-7-4425, 7-7-4430, 7-7-4501(2) and (3), and 7-7-4502 through 7-7-4505.

~~(4)~~*(5)* Any bonds issued under this part and part 6 have the same force, value, and use as bonds issued by a municipality and are exempt from taxation as property within the state of Montana."

Section 245. Section 76-15-605, MCA, is amended to read:

"76-15-605. Board decision. (1) The report of 76-15-603 ~~shall~~ *must* be presented and read at the hearing on the petition.

(2) At the public hearing on the petition, the board of supervisors shall proceed to hear and pass upon all protests made and its decision ~~shall~~ *must* be final and conclusive except when owners of more than 50% of the land in the proposed project area protest the project. If owners of more than 50% of the land protest the project, no further action may be taken for a period of 6 months from the date of the hearing, after which a new petition may be filed.

(3) If the board or boards of supervisors find that it is not feasible, desirable, or practical to establish the proposed project area, they shall make an order denying the petition and shall state therein their reasons for so doing.

(4) If, however, the board finds that the project is desirable, proper, and necessary, it shall grant the petition, establish the boundaries of the proposed project area, and notify the county election administrator that an election is to be held in the proposed area for the purpose of determining whether or not the project area ~~shall~~ *must* be created. *The election must be conducted in accordance with [sections 1 through 5].*"

Section 246. Section 85-7-1702, MCA, is amended to read:

"85-7-1702. Election or appointment of commissioners — term of office. (1) The ~~regular~~ election for commissioners in each district must be held annually in accordance with ~~13-1-104 and 13-1-401~~ *[sections 1 through 5]*.

(2) ~~Candidates~~ *A person eligible to vote in the district may file a declaration of candidacy* for the office of commissioner ~~may be nominated by petition filed~~ with the election administrator or deputy election administrator ~~at least 75 days before the election and signed by at least five electors of the district~~ *within the time period specified in [section 2]*. ~~If no nominations are made, the following procedures must be followed:~~

~~(a) For elections held in accordance with 13-1-401(1), the electors of the district shall write on the ballots the name of the person or persons for whom they desire to vote.~~

~~(b) For elections held in accordance with 13-1-401(2), the electors of the district may either accept nominations from the floor or write on the ballots the name of the person or persons for whom they desire to vote.~~

~~(3) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for the position, the board of commissioners shall make an appointment to fill the position and the term is the same as if the commissioner were elected.~~

~~(4)~~*(3)* Within 40 days following their election, the commissioners shall meet and organize as a board by electing a president from their number and a secretary, who may or may not be a commissioner, ~~and~~ who shall each hold office at the pleasure of the board. The term of office of each commissioner begins on

the date of the ~~organizational meeting after the regular election and continues for 3 years and until the~~ election ~~and qualification of a successor~~.

~~(5)~~*(4)* Commissioners are elected by the electors of the entire district."

Section 247. Section 85-7-1712, MCA, is amended to read:

"85-7-1712. ~~Special elections~~ *Call for an election.* The board of commissioners may at any time call ~~a special~~ *an* election and submit to the qualified electors of the district any question which under the provisions of this chapter is required or which, in the judgment of the board, is proper to be submitted to popular vote. ~~Such election shall be called, noticed, and conducted and the result thereof determined and declared in the manner provided in Title 13~~ *The election must be called by resolution and conducted in accordance with [sections 1 through 5]*."

Section 248. Section 85-7-1837, MCA, is amended to read:

"85-7-1837. Limitation on irrigable acreage — special election or petition. (1) The board of commissioners of an irrigation district shall, when authorized as provided in subsection (2), limit the amount of acreage within any farm operation in the district that may be serviced by the district.

(2) In determining whether to impose an acreage limitation on a particular farm operation:

(a) the board of commissioners may submit the question to the qualified electors of the district by ~~special~~ election as provided in 85-7-1712; or

(b) the limitation may be imposed based on a petition signed by not less than 60% of landowners representing not less than 60% of the irrigated land within the boundaries of the irrigation district.

(3) If a limitation is imposed by special election or petition, the minimum acreage limit that may be imposed is 960 acres of land owned or leased by any individual or legal entity.

(4) An irrigation district that has imposed an acreage limitation may require certification of acreage and designation of excess acreage by the electors. Except as provided in subsection (5), the district may withhold water on all acres designated as excess acres.

(5) An individual or legal entity that owns or leases irrigated acreage in excess of the limitation at the time the process of imposing a limitation begins may continue operations without penalty and without having water withheld as long as the ownership or lease remains with that individual or legal entity.

(6) The board of commissioners may adopt regulations necessary to administer the provisions of this section."

Section 249. Section 85-7-1974, MCA, is amended to read:

"85-7-1974. Majority vote or petition necessary to contract with the state. (1) No contract may be made between an irrigation district and the state of Montana under 85-7-1971 through 85-7-1975 except ~~upon~~ *on*:

(a) approval by a majority vote of those voting on the question at an election conducted ~~as prescribed~~ in *accordance with [sections 1 through 5] and* 85-7-1710; or

(b) receipt of a petition signed by at least 60% in number and acreage of the holders of title or evidence of title to lands within the district. ~~Such~~ *The* petition must be addressed to the board of commissioners and must set forth the aggregate amount of money to be borrowed from various sources, including the coal severance tax bonding program provided for in Title 17, chapter 5, part 7, and the purpose for which the money will be used. The petition must include an

affidavit certifying the signatures to the petition and must be filed with the secretary of the board of commissioners.

(2) In an election held for approval of a district contract under this section, the voting majority must own at least 50% of the acreage included in the district."

Section 250. Section 85-7-2013, MCA, is amended to read:

"85-7-2013. Majority vote and petition requirements. (1) Bonds provided for in 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized under this chapter or by an irrigation district on behalf of a subdistrict located in the district and a contract may not be made with the United States as provided in 85-7-1906 except ~~upon~~ *on*:

(a) approval by a majority vote of those voting on the question at an election conducted ~~as~~ *in accordance with [sections 1 through 5] with votes cast and counted as* prescribed in 85-7-1710;

(b) receipt of a petition signed by at least 60%, in number and acreage, of the holders of title or evidence of title to lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 60% in number and acreage of the holders of title or evidence of title to lands within the subdistrict; or

(c) receipt of a petition signed by at least 75%, in number and acreage, of the holders of title or evidence of title to the lands who are residents of the county or counties in which lands of the district are situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 75% in number and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in which lands of the subdistrict are situated.

(2) The petition must be addressed to the board of commissioners, set forth the aggregate amount of bonds to be issued and the purpose or purposes of the bonds, have attached to it an affidavit verifying the signatures to the petition, and be filed with the secretary of the board. When bonds are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of the district, the bonds may be authorized and issued in the manner provided for by 85-7-2019.

(3) In an election held for approval to allow a district or subdistrict to issue bonds or enter into a contract under this section, the voting majority must own at least 50% of the acreage included in the district or subdistrict."

Section 251. Section 85-8-302, MCA, is amended to read:

"85-8-302. Election of commissioners — regular term of office. (1) Except as provided in ~~subsection (2)~~ *[section 2(4)]*, the ~~regular~~ election of commissioners must be held annually *and conducted* in accordance with ~~13-1-104 and 13-1-401~~ *[sections 1 through 5]*. The term of office of commissioners shall commence on the ~~first Tuesday in May following their~~ *day of their* election.

(2) (a) At the first ~~regular~~ *primary or general* election following the organization of a district and in districts organized and in existence on March 1, 1921, and that, on petition, have been divided into divisions, ~~at the first regular election following the date of the order making the division,~~ three commissioners must be elected, with one commissioner being elected from each division.

(b) A commissioner must be an actual landowner in the division in which the commissioner is elected.

(c) One of the commissioners, to be determined by lot, shall hold office ~~until the first Tuesday in May in the year following election~~ *for 1 year*; another of the commissioners, to be determined by lot, shall hold office ~~until the first Tuesday in May in the second year following election~~ *for 2 years*; and the third commissioner shall hold office ~~until the first Tuesday in May in the third year following election~~ *for 3 years*.

(3) After the election of the initial commissioners, one commissioner must be elected each year. Commissioners *elected after the initial election* shall hold office for a term of 3 years ~~and until a successor is elected and qualified~~. The person elected as a commissioner in each year to succeed the commissioner whose term is then expiring must be elected as a commissioner from the same division as the commissioner whose term expires.

~~(2) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held as provided in this subsection, the county governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for the position, the board of commissioners shall make an appointment to fill the position, and the term is the same as if the commissioner were elected.~~

~~(3)~~*(4)* Each commissioner must be a resident of a county where a portion of the district lands is situated."

Section 252. Section 85-8-306, MCA, is amended to read:

"85-8-306. ~~Nominations~~ *Commissioner candidate filing.* ~~Candidates~~ *A person eligible to vote in the district may file a declaration of candidacy* for the office of commissioner ~~to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election and signed by at least five electors of the district~~ *within the time period specified in [section 2]*. ~~If no nominations are made, the electors of the district shall~~ *If a write-in candidate has filed pursuant to [section 2], the elector may* write on the ballots the name or names of the persons for whom they desire to vote. ~~This section does not prevent an elector from voting for any qualified person, although the name does not appear on the official ballot.~~"

Section 253. Section 85-8-624, MCA, is amended to read:

"85-8-624. Assessments on improvements — taxpayers' approval, limitations, and election procedures. (1) A vote of the persons on the assessment rolls in any existing district is required to make Chapter 409, Laws of 1973, applicable to a district.

(2) Chapter 409, Laws of 1973, does not confer ~~upon~~ *on* districts created for drainage purposes only the authority to levy assessments on benefits to improvements.

(3) The election provided for by subsection (1) must be governed by the following rules:

(a) Notice of the election must be as provided in ~~13-1-401(4)~~ *13-1-108*.

(b) The ~~manner of conducting the election must be as provided in 13-1-401 and as nearly as practicable in accordance with the provisions of the general election laws of the state in Title 13~~ *election must be conducted in accordance with [sections 1 through 5]*, except that *voter* registration may not be required.

(c) The qualifications of electors must be as provided in 85-8-305, except that, in addition to persons holding title or evidence of title to lands within the

district, any person, as provided in 85-8-305, who does not own land within the district but has been assessed or will have the person's improvements assessed under Chapter 409, Laws of 1973, or who will be assessed for benefits received is entitled to one vote. Commissioners shall prepare a list of persons *entitled to vote*, and the election administrator ~~or deputy election administrator~~ shall give them notice as provided in ~~13-1-401(4)~~ *13-1-108*.

(d) The commissioners of any district in existence prior to March 21, 1973, who wish to hold an election to determine if the district is governed by Chapter 409, Laws of 1973, shall at any regular or special meeting adopt a resolution calling for an election to determine whether or not the voters of the district wish to be governed by Chapter 409, Laws of 1973. The resolution must contain a short summary of the changes made by Chapter 409, Laws of 1973, and the summary must be included in the notice provided for by ~~13-1-401(4)~~ *13-1-108*. In addition, the commission shall provide copies of Chapter 409, Laws of 1973, to any person interested in obtaining a copy, and the notice to the persons in the district calling the election must describe where and how copies may be obtained. The commissioners may authorize a reasonable charge for providing copies, not to exceed 20 cents a page.

(e) The ballot must include the summary as provided for in subsection (3)(d), and the form of the ballot must conform as closely as possible to that provided for in Title 13, chapter 27.

(f) A simple majority of those who cast valid ballots determines the outcome of the election."

Section 254. Section 85-9-103, MCA, is amended to read:

"85-9-103. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Applicant" means a person residing within the boundaries of the proposed district and making a request for a study of the feasibility of forming a conservancy district.

(2) "Board of supervisors" means the board of supervisors of the soil and water conservation district in which the largest portion of the taxable valuation of real property of the proposed district is located.

(3) "Cost of works" means the cost of construction, acquisition, improvement, extension, and development of works, including financing charges, interest, and professional services.

(4) "Court" means the district court of the judicial district in which the largest portion of the taxable valuation of real property of the proposed district is located and within the county in which the largest portion of the taxable valuation of real property of the proposed district is located within the judicial district.

(5) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(6) "Directors" means the board of directors of a conservancy district.

(7) "District" means a conservancy district.

(8) "Elector" means a person qualified to vote under 85-9-421.

~~(9) "Notice" means publication at least once each week for 3 consecutive weeks in a newspaper published in each county or, if a newspaper is not published in a county, in a newspaper of general circulation in the county or counties in which a district is or will be located. The last published notice must~~

~~appear not less than 5 days prior to any hearing or election held under this chapter.~~

~~(10)~~*(9)* "Owners" means the person or persons who appear as owners of record of the legal title to real property according to the county records, whether the title is held beneficially or in a fiduciary capacity, except that a person holding a title for purposes of security is not an owner and the owner for security may not affect the previous title for purposes of this chapter.

~~(11)~~*(10)* "Person" means a natural person, firm, partnership, cooperative, association, public or private corporation, including the state of Montana or the United States, foundation, state agency or institution, county, municipality, district or other political subdivision of the state, federal agency or bureau, or any other legal entity.

~~(12)~~*(11)* "Taxable valuation" is the value as defined in 15-8-111 and does not mean assessed valuation.

~~(13)~~*(12)* "Works" means all property, rights, easements, franchises, and other facilities, including but not limited to land, reservoirs, dams, canals, dikes, ditches, pumping units, mains, pipelines, waterworks systems, recreational facilities, facilities for fish and wildlife, and facilities to control and correct pollution."

Section 255. Section 85-9-203, MCA, is amended to read:

"85-9-203. Hearing by department. (1) ~~Upon~~ *On* receipt of the preliminary survey report, the applicants or any one of them may request the department to hold a hearing. The department shall *provide notice as required in 7-1-2121 and then* hold the hearing ~~sooner~~ *no later than* than 61 days after receipt of the request. ~~Notice of the hearing shall be given in accordance with 85-9-103(9).~~

(2) If the department itself initiated the preliminary survey, it may hold a hearing without being requested to do so."

Section 256. Section 85-9-206, MCA, is amended to read:

"85-9-206. Court hearing on petition — election — limits on court jurisdiction. (1) ~~Upon~~ *On* receipt of a petition for organizing a district, the court shall give notice and hold a hearing on the petition. If the court finds that the petition should be granted, it shall:

(a) make and file findings of fact specifying those lands that will be directly or indirectly benefited by the proposed district and exclude those lands that will not be benefited;

(b) make an order fixing the time and place of an organizing election;

(c) order the election administrator to conduct the election in accordance with ~~the provisions of Title 13~~ *[sections 1 through 5]*; *and*

(d) order and decree the district organized if the requisite number of eligible electors ~~vote~~ *votes* in favor of organization.

(2) In order for the district to be organized, 51% or more of the eligible electors must vote in the election, and a majority of those voting must vote in favor of organization. ~~The election must be conducted by mail ballot, as provided in Title 13, chapter 19, or must be held in conjunction with a regular or primary election.~~

(3) This chapter does not confer ~~upon~~ *on* the court jurisdiction to hear, adjudicate, and settle questions concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and determine priority of appropriation and questions of right growing out of or in any way

connected with a priority of appropriation is expressly excluded from this chapter and must be determined as otherwise provided by the laws of Montana."

Section 257. Section 85-9-302, MCA, is amended to read:

"85-9-302. Dissolution election. (1) After receipt of petition or resolution for dissolution, the court shall order an election ~~in the way provided by 85-9-422~~ *to be conducted in accordance with [sections 1 through 5]*.

(2) For dissolution to be approved, a majority of the electors voting must favor dissolution."

Section 258. Section 85-9-408, MCA, is amended to read:

"85-9-408. Contracts and agreements by directors. On behalf of the district, the directors may:

(1) contract for service, for water furnished, or for the sale of water with any person;

(2) cooperate with; accept grants, loans, and other assistance from; act as agent for; and enter into agreements with any and all state or federal agencies and exercise all necessary or convenient powers in connection therewith;

(3) enter into any obligation or contract with an agency of the federal government for the construction, operation, and maintenance of works or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands under the provisions of the federal reclamation act and rules established under that act or contract with an agency of the federal government for a water supply under any federal act providing for or permitting such a contract. However, the action must be approved by a majority of the electors voting at an election ~~held as provided in 85-9-422~~ *conducted in accordance with [sections 1 through 5]*. If a contract is made with an agency of the federal government, the directors may deposit bonds of the district with the United States at 90% of their par value to secure the amount to be paid by the district to the United States under any contract. The interest on the bonds of the district to be applied as specified by the contract. If bonds of the district are deposited with the United States, it is the duty of the directors to make an assessment sufficient to meet all payments accruing under the terms of any contract with the United States.

(4) accept appointment of the district as fiscal agent for the United States or authorization of the district to make collections of moneys for or on behalf of the United States in connection with any federal reclamation projects, and the district is authorized to act and to assume the duties and liabilities incident to this action. However, the action must be approved by a majority of the electors voting at an election ~~held as provided in 85-9-422~~ *conducted in accordance with [sections 1 through 5]*. The directors may do all things required by federal statutes and rules and require prompt payment of all charges as a prerequisite to water service.

(5) make contracts incidental to the performance of the district's functions and employ and fix the compensation of employees, agents, or consultants as are deemed necessary, including but not limited to a manager, attorneys, accountants, engineers, construction and financial experts; *or*

(6) cooperate with soil and water conservation districts to obtain agreements to carry out soil conservation measures and proper farm plans from owners of lands situated in the drainage area above each retention reservoir to be installed with federal assistance."

Section 259. Section 85-9-501, MCA, is amended to read:

"85-9-501. Merger of districts. (1) In case two or more districts have been organized in a territory ~~which~~ *that*, in the opinion of the directors of each of the districts, should constitute but one district, the directors of the districts may petition the court for an order merging the districts into a single district. The petition ~~shall~~ *must* be filed in the office of the clerk of the district court in and for that county which has the largest portion of taxable valuation of property within the districts sought to be included, as shown by the tax rolls of the respective counties. The petition shall set forth facts showing that the purposes of this chapter would be served by the merging of the districts and that the merger would promote the economical execution of the purposes for which the districts were organized. A copy of the petition ~~shall~~ *must* be filed with the department.

(2) Upon the filing of the petition, the court shall by order fix a time and place of hearing, and the clerk shall give notice ~~as specified in 85-9-103(9), as well as by mail to~~ *as provided in 7-1-2121 and also notify by mail* the directors of the districts ~~which~~ *that* would be merged. The notice ~~shall~~ *must* contain the purpose, time, and the place of the hearing.

(3) Upon the hearing, ~~should~~ *if* the court ~~find~~ *finds* that the averments of the petition are true and that the districts or any of them could feasibly and profitably be merged, it shall order that the merger *must* take place and the districts ~~shall~~ *must* be merged into one district and proceed as such. The court shall designate the corporate name of the district, and further proceedings ~~shall~~ *must* be taken as provided for in this chapter. The court shall by order appoint the directors of the district, who shall thereafter have powers and be subject to rules as are provided for directors in districts created in the first instance.

(4) Instead of organizing a new district from the constituent districts, the court may, in its discretion, direct that one or more of the districts described in the petition be included in another of the districts, which other shall continue under its original corporate name and organization, or the court may direct that the district or districts so absorbed ~~shall~~ *must* be represented on the directors of the original districts, designating what members of the directors of the original district shall ~~be retired~~ *retire* from the new board and what members representing the included district or districts shall take their places.

(5) If the court receives a petition opposing the merger, signed by a majority of the electors of any of the concerned districts, the court shall not grant the order and shall dismiss the petition.

(6) Upon merger or inclusion, existing obligations shall remain exclusively with those who bore them prior to the merger or inclusion, except with the written consent, given prior to the merger or inclusion, of those who did not bear the obligations."

Section 260. Section 85-9-602, MCA, is amended to read:

"85-9-602. Notice of public budget hearing. (1) The directors shall, prior to the first Monday in May of each year, give notice ~~as provided in 85-9-103(9)~~ *in accordance with 7-1-2121* of the intention to hold a public budget hearing. The notice shall include the date, time, place, and general agenda.

(2) At the hearing, the directors shall:

(a) review the present budget;

(b) present the budget for the next year;

(c) hear and consider protests from any elector;

(d) adopt the budget for the next year; *and*

(e) set the assessment for the next year."

Section 261. Section 85-9-623, MCA, is amended to read:

"85-9-623. Issuance of bonds — resolution and election. When the directors find it necessary to issue bonds, the directors shall:

(1) pass a resolution that includes:

(a) the purpose or purposes for which the bonds will be issued;

(b) the maximum amount and term of the bonds;

(c) the maximum interest rate that the bonds will bear; *and*

(d) whether the bonds will be repaid from revenue, assessments, or both;

(2) give notice~~, as provided in 85-9-103(9),~~ *in accordance with 7-1-2121* that must include the resolution adopted by the directors and the location of polling places unless the election is conducted by mail ballot, as provided in Title 13, chapter 19; and

(3) hold an election ~~as provided by 85-9-422~~ *conducted in accordance with [sections 1 through 5]*."

Section 262. Repealer. The following sections of the Montana Code Annotated are repealed:

7-2-2219. Conduct of election.
7-2-2605. Notice and conduct of election.
7-2-2603. Withdrawal of name from petition.
7-2-2710. Procedure to hold election.
7-2-4105. Notice of election on question of organization.
7-2-4603. Notice of election.
7-2-4903. Notice of election on question of disincorporation.
7-3-124. Election procedure.
7-3-4209. Proclamation and notice of election.
7-3-4306. Proclamation and notice of election.
7-3-4308. Conduct of election.
7-3-4341. General provisions relating to elections.
7-5-136. Submission of question to electors.
7-6-1531. Resort area district — definitions.
7-6-1537. Conduct of election on question of creating resort area district.
7-6-1538. Qualifications to vote on question of creating resort area district.
7-6-1545. Resort area district board election — canvass of vote.
7-6-1549. Conduct of election on question of dissolving resort area district — qualification of electors.
7-7-2228. Time of holding election on question of issuing bonds.
7-7-4427. Special election on question of issuing bonds.
7-13-2235. Election and appointment procedure.
7-13-2236. General district election.
7-13-2243. Assistance for election administrator.
7-13-2246. Withdrawal of candidacy.
7-13-2247. Retention of petitions.
7-13-2254. Provision for vote by corporate property owner.
7-13-2255. Provision for vote by nonresident property owner.
7-13-2256. Canvass of vote.

7-34-2116. Election of first board of trustees.
20-3-304. Annual election.
20-3-344. Nomination of candidates by petition in first-class elementary district.
20-15-205. Call for nominations of trustee candidates and notice.
20-15-206. Nomination of candidates and provision of sample ballot.
20-20-101. Definition.
20-20-202. Time limitation for conduct of election.
76-15-302. Nominations for supervisor.
85-9-422. Election procedures.

Section 263. Codification instruction — instructions to code commissioner. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 13, chapter 1, and the provisions of Title 13, chapter 1, apply to [sections 1 through 5].

(2) [Sections 6 through 10] are intended to be codified as an integral part of Title 13, chapter 1, part 4, and the provisions of Title 13, chapter 1, part 4, apply to [sections 6 through 10].

(3) The code commissioner is instructed to renumber 7-14-2507 and codify it in Title 7, chapter 14, part 1.

Section 264. Effective date. [This act] is effective the day after the date of the 2015 statewide general election.

Approved February 25, 2015

CHAPTER NO. 50

[HB 94]

AN ACT ALLOWING NATURAL DISASTER MULTIPERIL INSURANCE TO BE SOLD AS SURPLUS LINES INSURANCE; AMENDING SECTIONS 33-2-301 AND 33-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-301, MCA, is amended to read:

"33-2-301. Short title — purpose — definitions. (1) This part constitutes and may be referred to as "The Surplus Lines Insurance Law".

(2) The purpose of this part is to:

(a) protect persons seeking insurance in this state;

(b) permit surplus lines insurance to be placed with reputable and financially sound unauthorized insurers and to be exported from this state pursuant to this part;

(c) establish a system of regulation that will permit orderly access to surplus lines insurance in this state and encourage authorized insurers to provide new and innovative types of insurance to consumers in this state; and

(d) protect revenues of this state.

(3) As used in this part, the following definitions apply:

(a) "Affiliated" means that a person directly or indirectly controls, is controlled by, or is under common control with the insured.

(b) "Affiliated group" means any group of persons that are affiliated.

(c) "Approved risk list" means the list approved by the commissioner of the kinds of insurance presumed unobtainable from authorized insurers when Montana is the home state of the insured.

(d) "Authorized insurer" means an insurer authorized pursuant to 33-2-101 to transact insurance in this state.

(e) (i) "Business entity" means a corporation, a limited liability company, an association, a partnership, a limited liability partnership, or other legal entity.

(ii) The term does not include an individual.

(f) "Control", including the terms "controlled by" and "under common control with", means that:

(i) the person directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote 25% or more of any class of voting securities of a business entity; or

(ii) the person controls in any manner the election of a majority of the directors or trustees of a business entity.

(g) "Eligible surplus lines insurer" means an unauthorized insurer that is eligible to issue surplus lines insurance under 33-2-307.

(h) "Exempt commercial purchaser" has the meaning provided in 33-2-318.

(i) "Export" means to place surplus lines insurance with an unauthorized insurer.

(j) "Home state" means, with respect to an insured:

(i) the state in which the insured maintains its principal place of business or, in the case of an individual, the individual's principal residence;

(ii) if 100% of the insured risk is located outside the state referred to in subsection (3)(j)(i), the state with the greatest allocated percentage of the insured's taxable premium for that surplus lines insurance contract;

(iii) if more than one insured from an affiliated group are named insureds on a single surplus lines insurance contract, the home state as determined under subsection (3)(j)(i) or (3)(j)(ii) for the member of the affiliated group that has the largest percentage of premium attributed to it under the surplus lines insurance contract; or

(iv) if a group policyholder pays 100% of the premium from its own funds, the home state of the group policyholder as determined under subsection (3)(j)(i) or, if a group policyholder does not pay 100% of the premiums from its own funds, the home state of the group member as determined under subsection (3)(j)(i).

(k) "Independently procured insurance" means surplus lines insurance procured directly by an insured from an eligible surplus lines insurer.

(l) "Multistate risk" means a risk covered by an unauthorized insurer with insured exposures in more than one state.

(m) "Natural disaster multiperil insurance" means any bundled flood, earthquake, and landslide insurance that may be sold as surplus lines insurance.

~~(m)~~*(n)* "Principal place of business" means the state where the insured business maintains its headquarters and where the insured's high-level officers direct, control, and coordinate the business activities of the insured.

~~(n)~~*(o)* "Principal residence" means the state where an individual insured resides for the greatest number of days during a calendar year or, if the insured's principal residence is located outside of any state, the state to which the greatest

percentage of the insured's taxable premium for that insurance contract is located.

~~(o)~~*(p)* "Producing insurance producer" means a Montana-licensed property and casualty insurance producer dealing directly with a person seeking insurance.

~~(p)~~*(q)* "Qualified risk manager" has the meaning provided in 33-2-319.

~~(q)~~*(r)* "Single-state risk" means a risk covered by an unauthorized insurer with exposures in only one state.

~~(r)~~*(s)* "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

~~(s)~~*(t)* (i) "Surplus lines insurance" means any property or casualty insurance permitted in a state to be placed directly or through a surplus lines insurance producer with an unauthorized insurer eligible to accept the insurance. The term includes independently procured insurance.

(ii) The term does not include the kinds of insurance exempted under 33-2-317.

~~(t)~~*(u)* "Surplus lines insurance producer" means an individual or business entity licensed under 33-2-305 to place surplus lines insurance on risks resident, located, or to be performed in this state with unauthorized insurers eligible to accept the insurance.

~~(u)~~*(v)* "Unauthorized insurer" means, with respect to a state, an insurer not authorized to transact the business of insurance in the state. The term includes an insurance exchange authorized under the laws of another state. The term does not include a risk retention group, as that term is defined in the Liability Risk Retention Act of 1986, 15 U.S.C. 3901(a)(4)."

Section 2. Section 33-2-302, MCA, is amended to read:

"33-2-302. Home state exclusive authority — conditions precedent to sale of surplus lines insurance. (1) Pursuant to the Nonadmitted and Reinsurance Reform Act of 2010, Title V, subtitle B, of Public Law 111-203, the transaction of surplus lines insurance is subject to the statutory and regulatory requirements of the home state of the insured, regardless of whether a multistate risk is covered. If, at the time of the surplus lines insurance transaction, the home state:

(a) is Montana, the surplus lines insurance transaction is subject to the applicable statutory and regulatory requirements in Montana; or

(b) is not Montana, the Montana statutory and regulatory requirements regarding the surplus lines insurance transaction are preempted by the statutory and regulatory requirements of the home state.

(2) When Montana is the home state at the time of the surplus lines insurance transaction, the following apply:

(a) A producing insurance producer may request a surplus lines insurance producer to place or a surplus lines insurance producer may place a contract of insurance with an unauthorized insurer if:

(i) the insurer is an eligible surplus lines insurer;

(ii) the line of insurance or the full amount of the line of insurance cannot be obtained from authorized insurers or, in the case of a renewal, the line of insurance has not become available from an authorized insurer, as evidenced by one of the following:

(A) the producing insurance producer making a diligent effort to place the business with a minimum of three insurers authorized and actually transacting that line of business in this state. If fewer than three insurers are authorized and actually transacting the line of business in this state, diligent effort must be met by searching this lesser market.

(B) the appearance on the current approved risk list of the kind of insurance being sought; *or*

(C) the insurance is natural disaster multiperil insurance;

(iii) the insurance is not procured for the purpose of securing:

(A) a lower premium rate than would be accepted by an authorized insurer unless the premium rate quoted by the authorized insurer is at least 10% higher and at least $1,500 greater than the premium rate quoted by the unauthorized insurer; or

(B) an advantage in terms of the insurance contract; and

(iv) all other requirements of this part are met.

(b) A contract of insurance may not be placed with an unauthorized insurer under subsection (2)(a)(iii)(A) unless the unauthorized insurer is eligible under 33-2-307 and the unauthorized insurer or the surplus lines insurance producer that placed the contract of insurance with the unauthorized insurer has provided the insured with disclosure information in a form and content approved by the commissioner.

(c) A surplus lines insurance producer placing coverage with an eligible surplus lines insurer for an exempt commercial purchaser is not required to satisfy the search requirements in subsection (2)(a) if:

(i) the surplus lines insurance producer placing the coverage has disclosed to the exempt commercial purchaser that the insurance may or may not be available from an authorized insurer that may provide greater protection with more regulatory oversight; and

(ii) the exempt commercial purchaser has subsequently requested in writing to the surplus lines insurance producer that the coverage be placed with the surplus lines insurer."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 25, 2015

CHAPTER NO. 51

[HB 134]

AN ACT PROHIBITING A YOUTH ADJUDICATED FOR ONLY MISDEMEANOR OFFENSES FROM BEING PLACED IN A STATE PRISON; AMENDING SECTION 41-5-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-208, MCA, is amended to read:

"41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition — nonextended jurisdiction and nontransferred cases. (1) After adjudication by the court of a case that was not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county attorney, transfer

jurisdiction to the district court and order the transfer of supervisory responsibility from juvenile probation services to adult probation services. A transfer under this section may be made to ensure continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

(4) If a youth whose case has been transferred to district court under this section violates a disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose conditions as provided under 46-18-201 through 46-18-203*, but may not place a youth in a state adult correctional facility unless the youth was adjudicated for a felony offense*.

(5) If, at the time of transfer, the youth is incarcerated in a state youth correctional facility, the district court may order that the youth, after reaching 18 years of age:

(a) be incarcerated in a state adult correctional facility *if the youth was adjudicated for a felony offense*, boot camp, or prerelease center; or

(b) be supervised by the department.

(6) The district court's jurisdiction over a case transferred under this section terminates when the youth reaches 25 years of age."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 25, 2015

CHAPTER NO. 52

[SB 58]

AN ACT PROVIDING FOR REVISED NOTICE REQUIREMENTS FOR CERTAIN WATER RIGHTS APPLICATIONS OR CHANGES; AMENDING SECTIONS 85-2-307 AND 85-2-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-307, MCA, is amended to read:

"85-2-307. Notice of application for permit or change in appropriation right. (1) Upon receipt of an application for a permit or a change in appropriation right, the department shall publish notice of receipt of the application on the department's website.

(2) (a) Within 120 days of the receipt of a correct and complete application for a permit or change in appropriation right, the department:

(i) may meet informally with the applicant, the persons listed in subsection (2)(d), and persons who may claim standing pursuant to 85-2-308 to discuss the application;

(ii) shall make a written preliminary determination as to whether or not the application satisfies the applicable criteria for issuance of a permit or change in appropriation right; and

(iii) may include conditions in the written preliminary determination to satisfy applicable criteria for issuance of a permit or change in appropriation right.

(b) If the preliminary determination proposes to grant an application, the department shall prepare a notice containing the facts pertinent to the application, including the summary of the preliminary determination and any conditions, and shall publish the notice once in a newspaper of general circulation in the area of the source.

(c) If the preliminary determination proposes to deny an application, the process provided in 85-2-310 must be followed.

(d) Before the date of publication, the department shall also serve the notice by first-class mail upon:

(i) an appropriator of water or applicant for or holder of a permit who, according to the records of the department, may be affected by the proposed appropriation;

(ii) any purchaser under contract for deed, as defined in 70-20-115, of property that, according to the records of the department, may be affected by the proposed appropriation; and

(iii) any public agency that has reserved waters in the source under 85-2-316.

(e) The department may, in its discretion, also serve notice upon any state agency or other person the department feels may be interested in or affected by the proposed appropriation.

(f) The department shall file in its records proof of service by affidavit of the publisher in the case of notice by publication and by its own affidavit in the case of service by mail.

(3) The notice must state that by a date set by the department, not less than 15 days or more than 60 days after the date of publication, persons may file with the department written objections to the application.

~~(4) The requirements of subsections (2) and (3) do not apply if the department finds, on the basis of information reasonably available to it, that the appropriation as proposed in the application will not adversely affect the rights of other persons.~~"

Section 2. Section 85-2-804, MCA, is amended to read:

"85-2-804. Application — notice — objections — hearing. (1) An appropriator proposing to divert from the basin water allocated to Montana under the terms of the compact or divert from the basin unallocated compact water within Montana shall file an application with the department. The

application must state the name and address of the applicant and facts tending to show that:

(a) the diversion and ultimate use of the water in Montana is for a beneficial use of water;

(b) the diversion and ultimate use of water will not adversely affect the water rights of other persons;

(c) the proposed means of diversion, construction, and operation are adequate;

(d) the diversion and ultimate use will not interfere unreasonably with other planned uses or developments for which a water right has been established or a permit has been issued or for which water has been reserved;

(e) the diversion and ultimate use of the water will not exceed the allocated share under the compact of any of the signatory states;

(f) the diversion and ultimate use of the water are in the public interest of Montana; and

(g) the applicant intends to comply with the laws of the signatory states to the compact.

(2) An appropriator proposing to divert from the basin water allocated to North Dakota or Wyoming under the terms of the compact or divert from the basin unallocated compact water within North Dakota or Wyoming shall file an application with the department. The application must state the name and address of the applicant and facts tending to show that:

(a) the proposed means of diversion, construction, and operation are adequate;

(b) the diversion and ultimate use of the water will not exceed the allocated share under the compact of any of the signatory states; and

(c) the applicant intends to comply with the compact.

(3) Notice of the proposed diversion must be given by the department in the same manner as provided in 85-2-307~~(1) through (3)~~.

(4) An objection to an application must be filed by the date specified by the department in the notice.

(5) The objector to an application under subsection (1) shall state the objector's name and address and facts tending to show that:

(a) the diversion and ultimate use of the water in Montana are not for a beneficial use of water;

(b) the property, rights, or interests of the objector would be adversely affected by the proposed diversion or ultimate use of the water;

(c) the proposed means of diversion, construction, and operation are not adequate;

(d) the diversion and ultimate use will interfere unreasonably with the objector's planned uses or development for which the objector has a water right, a permit, or a reserved water right;

(e) the diversion and ultimate use of the water will exceed the allocated share under the compact of any signatory state; or

(f) the diversion and ultimate use of the water are not in the public interest of Montana.

(6) The objector to an application under subsection (2) shall state the objector's name and address and facts tending to show that:

(a) the property, rights, or interests of the objector would be adversely affected by the proposed diversion or ultimate use of the water;

(b) the proposed means of diversion, construction, and operation are not adequate; or

(c) the diversion and ultimate use of the water will exceed the allocated share under the compact of any signatory state.

(7) If the department receives an objection to an application, it shall hold a hearing on the application within 60 days from the date set by the department for filing objections. Service of notice of the hearing must be made by certified mail upon the applicant and the objector.

(8) The hearing must be conducted under the contested case procedures of the Montana Administrative Procedure Act in Title 2, chapter 4, part 6."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 25, 2015

CHAPTER NO. 53

[SB 59]

AN ACT CLARIFYING THE COURT'S ROLE IN THE ELIGIBILITY DETERMINATION PROCESS FOR ASSIGNING COUNSEL AT PUBLIC EXPENSE; AND AMENDING SECTION 47-1-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility — determination of indigence — rules. (1) (a) When a court orders the office to assign counsel *to an applicant for public defender services*, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately ~~notify the court~~ *file a motion to rescind appointment* so that the court's order may be rescinded.

(c) (i) The applicant may request that the court conduct a hearing on the motion to rescind appointment. If the applicant requests a hearing on the motion to rescind appointment, the court shall hold the hearing.

(ii) The sole purpose of the hearing is to determine the financial eligibility of the applicant for public defender services. At the beginning of the hearing, the court shall admonish the parties that the scope of the hearing is limited to determining the financial eligibility of the applicant for public defender services.

(iii) Only evidence related to the applicant's financial eligibility for public defender services may be introduced at the hearing.

(iv) The applicant may not be compelled to testify at a hearing on the motion to rescind appointment.

(v) If the applicant testifies at the hearing, the applicant may be questioned only regarding financial eligibility for public defender services.

(vi) If the applicant testifies at the hearing, the court shall advise the applicant that any testimony or evidence introduced on the applicant's behalf other than testimony or evidence regarding financial eligibility may be used during any criminal action.

(vii) Evidence regarding financial eligibility under this section may not be used in any criminal action, except in a criminal action regarding a subsequent charge of perjury or false swearing related to the applicant's claim of entitlement to public defender services.

(d) If the applicant does not request a hearing on the motion to rescind appointment, does not appear at a hearing on the motion to rescind appointment, or does not testify or present evidence regarding financial eligibility at the hearing on the motion to rescind appointment, the court shall find the applicant is not eligible to have counsel assigned under Title 47 and shall grant the motion to rescind appointment and order the assignment of counsel to be rescinded.

~~(c)~~*(e)* A person for whom counsel is assigned is entitled to the full benefit of public defender services until the ~~court's order requiring the assignment is rescinded~~ *court grants the motion to rescind appointment and orders the assignment of counsel to be rescinded*.

~~(d)~~*(f)* Any determination pursuant to this section is subject to the review and approval of the court. The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.

(2) (a) An applicant *for public defender services* who is eligible for a public defender because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit. The court shall advise the defendant that the defendant is subject to criminal charges for any false statement made on the financial statement.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission. The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in 15-30-2337, is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section."

Approved February 25, 2015

CHAPTER NO. 54

[SB 62]

AN ACT REVISING THE REPORTING AND PAYMENT DATES FOR PER CAPITA LIVESTOCK FEES; AMENDING SECTIONS 15-24-903, 15-24-905, 15-24-906, 15-24-921, AND 81-7-603, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-24-903, MCA, is amended to read:

"15-24-903. Duty of owner to assist in assessment. (1) The owner of livestock, as defined in 15-24-921, or the owner's agent shall ~~at the time of assessment make and~~ deliver to the department ~~for the county or counties where the owner's livestock were located on February 1 a written statement, under oath, listing the owner's different kinds of livestock within the county or counties, together with a listing of their marks and brands~~ *by March 1 of each year an electronic or written statement, under oath, listing the number of the owner's livestock and the county or counties where the livestock were located on February 1 of the same year*.

(2) As used in this section, "agent" means any person, persons, company, or corporation, including a feedlot operator or owner of grazing land, who has charge of livestock on ~~the assessment date~~ *the assessment date*."

Section 2. Section 15-24-905, MCA, is amended to read:

"15-24-905. Livestock brought into state — notice to department. The owner or the agent, manager, or supervisor of any person, corporation, or association bringing livestock into this state after February 1 shall immediately after the livestock cross the state line ~~forward to the department a certified letter,~~ *complete a livestock reporting form* containing the name of the owner of the livestock, the number of livestock, ~~the brand on the livestock, the ages of the livestock, the time and place at which the livestock were brought across the state line,~~ and the county or counties into which the livestock are moved. ~~The department of livestock shall at least once each month furnish from its own records to the department a list of the number and kind of livestock moved into each county, together with the name of the owner of the livestock.~~"

Section 3. Section 15-24-906, MCA, is amended to read:

"15-24-906. Collection of fee on livestock. The department, upon receipt of the ~~letter~~ *livestock reporting form* provided for in 15-24-905 or other information that livestock ~~has~~ *have* been brought into a county from outside of

the state after February 1 in any year, shall immediately proceed under the provisions of this part."

Section 4. Section 15-24-921, MCA, is amended to read:

"15-24-921. Per capita fee to pay expenses of enforcing livestock laws. (1) ~~In addition to appropriations made for those purposes, a~~ *A* per capita fee is authorized and directed to be imposed by the department on all poultry and bees, all swine 3 months of age or older, and all other livestock 9 months of age or older in each county of this state. *The fee is in addition to appropriations and is to help pay* ~~for the purpose of aiding in the payment of~~ the salaries and all expenses connected with the enforcement of the livestock laws of the state and ~~for the payment of~~ bounties on wild animals as provided in 81-7-104.

(2) The per capita fee is due on ~~November 30~~ *May 31* of each year. The penalty and interest provisions contained in 15-1-216 apply to late payments of the fee.

(3) As used in this section, "livestock" means cattle, sheep, swine, poultry, bees, goats, horses, mules, asses, llamas, alpacas, domestic bison, ostriches, rheas, ~~and~~ emus, and domestic ungulates."

Section 5. Section 81-7-603, MCA, is amended to read:

"81-7-603. County commissioners permitted to ~~levy~~ *require* per capita license fee on cattle. (1) To defray the expense of protection, the board of county commissioners may require all owners or persons in possession of ~~any~~ cattle 9 months of age or older in the county on ~~the regular assessment date~~ *the regular assessment date* of each year*,* as provided in 15-24-903*,* to pay a per capita license fee in an amount to be determined by the board. All owners or persons in possession of cattle 9 months of age or older coming into the county after ~~the regular assessment date~~ *the regular assessment date* and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9, are subject to payment of the license fee.

(2) Upon the order of the board of county commissioners, the license fee may be imposed by entering the name of the licensee ~~upon~~ *on* the assessment record of the county by the department of revenue. The license fee is payable to *and must be collected by* the county treasurer. When levied, the fee is a lien upon the property, both real and personal, of the licensee. If the person against whom the license fee is levied does not own real estate against which the license fee is or may become a lien, then the license fee is payable immediately upon its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal property taxes that are not a lien upon real estate.

(3) The fees must be placed in a predatory animal control fund separate from the fund provided for in 81-7-303. The money in the predatory animal control fund may be expended by the board of county commissioners only for the predatory animal control program. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of this part."

Section 6. Effective date. [This act] is effective January 1, 2016.

Section 7. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Approved February 25, 2015

CHAPTER NO. 55

[SB 65]

AN ACT REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 64TH LEGISLATURE AND PREVIOUS LEGISLATURES; AND AMENDING SECTIONS 2-15-3110, 2-17-546, 7-31-202, 7-32-303, 7-33-4107, 10-1-1402, 13-13-212, 13-21-212, 13-35-502, 15-30-2604, 15-31-150, 19-20-408, 19-20-410, 20-1-213, 33-22-703, 37-47-101, 39-71-703, 39-71-1101, 41-2-103, 45-7-309, 45-9-203, 46-18-201, 46-18-245, 46-18-256, 46-23-1027, 50-2-109, 53-4-209, 61-10-121, 69-13-302, 72-5-446, 72-38-111, 72-38-132, 72-38-301, 72-38-802, 75-1-102, 77-1-103, 77-1-218, 82-2-203, AND 87-2-525, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board — purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf *conservation and management plan* and *the Montana* grizzly bear management ~~plans~~ *plan* and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf and grizzly bear predation.

(2) The board consists of five members, appointed by the governor, as follows:

(a) three members who are actively involved in the livestock industry and who have knowledge and experience with regard to wildlife impacts or management; and

(b) two members of the general public who are or have been actively involved in wildlife conservation or wildlife management and who have knowledge and experience with regard to livestock production or management.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

(4) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

(5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and 81-1-110 through 81-1-112."

Section 2. Section 2-17-546, MCA, is amended to read:

"2-17-546. Exemption of ~~law enforcement telecommunications system~~ *criminal justice information network* — exception. The provisions of this part do not apply to the ~~law enforcement telecommunications system~~ *criminal justice information network* or its successor except for the provisions dealing with the purchase, maintenance, and allocation of telecommunication facilities. However, the department of justice shall cooperate with the department to coordinate the telecommunications networks of the state."

Section 3. Section 7-31-202, MCA, is amended to read:

"7-31-202. Qualifications for public safety communications officers. To be appointed a public safety communications officer, a person:

(1) must be a citizen of the United States;

(2) must be at least 18 years of age;

(3) must be fingerprinted and a search must be made of local, state, and national fingerprint files to disclose any criminal record;

(4) may not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

(5) must be of good moral character, as determined by a thorough background investigation;

(6) must be a high school graduate or have ~~passed the general educational development test and have~~ been issued ~~an~~ *a high school* equivalency ~~certificate~~ *diploma* by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government; and

(7) must meet any additional qualifications established by the council."

Section 4. Section 7-32-303, MCA, is amended to read:

"7-32-303. Peace officer employment, education, and certification standards — suspension or revocation — penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

(c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;

(d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

(e) be of good moral character, as determined by a thorough background investigation;

(f) be a high school graduate or have ~~passed the general educational development test and~~ been issued ~~an~~ *a high school* equivalency ~~certificate~~ *diploma* by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) be examined by a licensed physician, who is not the applicant's personal physician, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment, a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice of the event must be given to the Montana public safety officer standards and training council by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the Montana public safety officer standards and training council and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace officer's course that is taught by a federal, state, or United States military law enforcement agency and that is reviewed and approved by the Montana public safety officer standards and training council as equivalent with current training in Montana and whose last date of employment as a peace officer or member of the military law enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully completing a basic equivalency course administered by the Montana law enforcement academy. The prior employment of a member of the military law enforcement must be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer fails the basic equivalency course, the peace officer shall complete the appropriate basic equivalency course within 120 days of the date of the failure of the equivalency course.

(6) The Montana public safety officer standards and training council may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must, upon application to the Montana public safety officer standards and training council, be issued a basic certificate by the council, certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the Montana public safety officer standards and training council to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed $500, or both."

Section 5. Section 7-33-4107, MCA, is amended to read:

"7-33-4107. Qualifications of firefighters. The state of Montana determines that qualifications for the firefighting profession must recognize the rigorous physical demands placed on firefighters and the expectation of many years of emergency service. To qualify as a firefighter, an applicant:

(1) must be a citizen of the United States;

(2) must be at least 18 years of age;

(3) must be a high school graduate or have ~~passed the general educational development test and have~~ been issued ~~an~~ *a high school* equivalency ~~certificate~~ *diploma* by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(4) must possess or be eligible for a valid Montana driver's license;

(5) shall pass a physical examination by a qualified physician, physician assistant, or advanced practice registered nurse, who is not the applicant's personal physician, physician assistant, or advanced practice registered nurse, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect the applicant's performance of the duties of a firefighter;

(6) must be fingerprinted and a search must be made of the local, state, and national fingerprint files to disclose any criminal record; and

(7) may not have been convicted of a crime for which the applicant could have been imprisoned in a federal or state penitentiary."

Section 6. Section 10-1-1402, MCA, is amended to read:

"10-1-1402. Legislative intent. It is the intent of the legislature that:

(1) the youth challenge program assist youth between 16 and 18 years of age to achieve a quality education and develop the skills and abilities necessary to become productive citizens;

(2) the youth challenge program focus on the physical, emotional, and educational needs of youth within a voluntary, highly structured environment;

(3) eligible participants be drug-free, not be on parole or probation for other than juvenile-status offenses, not have been indicted for or charged with an offense other than a juvenile-status offense, and not have been convicted of a felony or capital offense;

(4) recruiting for the youth challenge program treat all eligible youth equitably and seek representation from different genders, ethnic groups, and geographic locations;

(5) the youth challenge program conduct structured training consisting of a residential phase and a postresidential phase with curriculum that focuses on academic excellence, including the successful completion of the tests for ~~general educational development~~ *a high school equivalency diploma*, and on physical fitness, job skills, service to the community, health and hygiene, responsible citizenship, leadership, how to follow directions, and life-coping skills; and

(6) the youth challenge program be conducted in cooperation with other community programs for at-risk youth."

Section 7. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot — special provisions — biennial absentee ballot list. (1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using a standard application form provided by rule by the secretary of state pursuant to 13-1-210 or by making a written request, which must include the applicant's birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(b) A person who holds a power of attorney from ~~an absent uniformed services elector [a uniformed-service voter]~~ *a uniformed-service voter* may apply for an absentee ballot for that election on behalf of the ~~uniformed services elector [uniformed-service voter]~~ *uniformed-service voter*. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the absentee election board or by an authorized election official as provided in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the absentee election board or by an authorized election official at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under subsection (2)(a) must be received by the election administrator within the time period specified in 13-13-211(2).

(3) (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote as long as the elector remains qualified to vote and resides at the address provided in the initial application. The request may be made when the individual applies for voter registration using the standard application form provided for in 13-1-210.

(b) The election administrator shall biennially mail a forwardable address confirmation form to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form must request the elector's driver's license number or the last four digits of the elector's social security number. The address confirmation form must be mailed in January of every even-numbered year. The address confirmation form is for elections to be held between February 1 following the mailing through January of the next even-numbered year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, provide the elector's driver's license number or the last four digits of the elector's social security number, and return the form to the election administrator. If the form is not completed and returned, the election administrator shall remove the elector from the biennial absentee ballot list.

(c) An elector may request to be removed from the biennial absentee ballot list for subsequent elections by notifying the election administrator in writing.

(d) An elector who has been or who requests to be removed from the biennial absentee ballot list may subsequently request to be mailed an absentee ballot for each subsequent election.

(4) In a mail ballot election, ballots must be sent under mail ballot procedures rather than under the absentee ballot procedures set forth in subsection (3)."

Section 8. Section 13-21-212, MCA, is amended to read:

"13-21-212. Mailing ballots to ~~United States elector [covered voter]~~ *covered voter*. Ballots mailed to a ~~United States elector [covered voter]~~ *covered voter* must be handled as prescribed in 13-13-214, except that both the envelope in which a ballot is mailed to the ~~elector [covered voter]~~ *covered voter* and the signature envelope for the ballot must have printed across ~~its~~ *the* face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency."

Section 9. Section 13-35-502, MCA, is amended to read:

"13-35-502. Findings. The people of the state of Montana find that:

(1) since 1912, through passage of the Corrupt Practices Act by initiative, Montana has prohibited corporate contributions to and expenditures on candidate elections;

(2) in 1996, by passage of Initiative No. 125, Montana prohibited corporations from using corporate funds to make contributions to or expenditures on ballot issue campaigns;

(3) Montana's 1996 prohibition on corporate contributions to ballot issue campaigns was invalidated by Montana Chamber of Commerce v. Argenbright, 226 F.3d 1049 (2000). Montana's 1912 prohibition on corporate contributions to and expenditures on candidate elections is also being challenged under the holding of Citizens United v. FEC, ~~558 U.S. _____~~ *558 U.S. 310*, 130 S.Ct. 876 (2010). This decision equated the political speech rights of corporations with those of human beings.

(4) in 2011 the Montana Supreme Court, in its decision, Western Tradition Partnership, Inc. v. Attorney General, 2011 MT 328, upheld Montana's 1912 prohibition on corporate contributions to and expenditures on candidate campaigns, stating in its opinion as follows:

(a) examples of well-financed corruption involving corporate money abound in Montana;

(b) the corporate power that can be exerted with unlimited corporate political spending is still a vital interest to the people of Montana;

(c) corporate independent spending on Montana ballot issues has far exceeded spending from other sources;

(d) unlimited corporate money into candidate elections would irrevocably change the dynamic of local Montana political office races;

(e) with the infusion of unlimited corporate money in support of or opposition to a targeted candidate, the average citizen candidate in Montana would be unable to compete against the corporate-sponsored candidate, and Montana citizens, who for over 100 years have made their modest election contributions meaningfully count, would be effectively shut out of the process; and

(f) clearly the impact of unlimited corporate donations creates a dominating impact on the Montana political process and inevitably minimizes the impact of individual Montana citizens."

Section 10. Section 15-30-2604, MCA, is amended to read:

"15-30-2604. Time for filing — extensions of time. (1) (a) Except as provided in subsection (1)(b), a return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before April 15 following the close of the calendar year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal revenue service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(2) The return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. An affidavit or affirmation must be attached to the return from the persons making the return verifying that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve the taxpayer of the obligation to make a return required under this chapter. A taxpayer liable for a tax under this chapter shall pay a minimum tax of $1.

(3) (a) Subject to subsections (3)(b) and (3)(c), a taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

(b) (i) Except as provided in subsection (3)(c), on or before the due date of the return, the taxpayer shall pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.

(ii) The remaining tax, penalty, and interest of the current year's tax liability not paid under subsection ~~(3)(b)(ii)~~ *(3)(b)(i)* must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.

(c) A taxpayer that has a tax liability of $200 or less for the current year may pay the entire amount of the tax, without penalty or interest under 15-1-216, on or before the due date of the return under subsection (3)(a). If the tax is not paid on or before the due date of the return under subsection (3)(a), penalty and interest must be added to the tax due as provided in 15-1-216 from the original due date of the return.

(4) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(5) Except as provided in subsection (3)(c), the extension of time for filing a return is not an extension of time for the payment of taxes."

Section 11. Section 15-31-150, MCA, is amended to read:

"15-31-150. Credit for research expenses and research payments. (1) (a) There is a credit against taxes otherwise due under this chapter for increases in qualified research expense and basic research payments for research conducted in Montana. Except as provided in this section, the credit must be determined in accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as that section read on July 1, 1996, or as subsequently amended.

(b) For purposes of the credit, the:

(i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;

(ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;

(iii) special rules in 26 U.S.C. 41(g) do not apply; and

(iv) termination date provided for in 26 U.S.C. 41(h)(1)(B) does not apply.

(2) The credit allowed under this section for a tax year may not exceed the tax liability under chapter 30 or 31. A credit may not be refunded if a taxpayer has tax liability less than the amount of the credit.

(3) The credit allowed under this section may be used as a carryback against taxes imposed under chapter 30 or 31 for the 2 preceding tax years and may be used as a carryforward against taxes imposed by chapter 30 or 31 for the 15 succeeding tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) A taxpayer may not claim a current year credit under this section after December 31, 2010. However, any unused credit may be carried back or forward as provided in subsection (3).

(5) A corporation, an individual, a small business corporation, a partnership, a limited liability partnership, or a limited liability company qualifies for the credit under this section. If the credit is claimed by a small business corporation, a partnership, a limited liability partnership, or a limited liability company, the credit must be attributed to the individual shareholders, partners, members, or managers in the same proportion used to report income or loss for state tax purposes. The allocations in 26 U.S.C. 41(f) do not apply to this section.

(6) For purposes of calculating the credit, the following definitions apply:

(a) "Gross receipts" means:

(i) for a corporation that has income from business activity that is taxable only within the state, all gross sales less returns of the corporation for the tax year; and

(ii) for a corporation that has income from business activity that is taxable both within and outside of the state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

(b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d), but is limited to research conducted in Montana.

(c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b), but includes only the sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

(d) "Supplies" has the meaning provided in 26 U.S.C. 41(b)(2)(C), but includes only those supplies used in the conduct of qualified research in Montana.

(e) (i) "Wages" has the meaning provided in 39-51-201, except as provided in subsection (6)(e)(ii) of this section, and includes only those wages paid or incurred for an employee for qualified services performed by the employee in Montana.

(ii) Notwithstanding the exception to the definition of wages in ~~39-51-201(24)(b)(v)~~ *39-51-201(25)(b)(v)*, for a self-employed individual and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the employee.

(7) The department shall adopt rules, prepare forms, maintain records, and perform other duties necessary to implement this section. In adopting rules to

implement this section, the department shall conform the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except to the extent that the regulations need to be modified to conform to this section."

Section 12. Section 19-20-408, MCA, is amended to read:

"19-20-408. Creditable service for employment in private schools. (1) (a) A member who has at least 5 years of membership service, who has completed 1 full year of active membership subsequent to the member's private school employment, and who contributes to the retirement system as provided in subsection (2) may receive up to 5 years of creditable service in the retirement system for employment within the United States in a private elementary, secondary, or postsecondary educational institution.

(b) Employment to be credited must be of an instructional nature, as an administrative officer, or as a member of the scientific staff. If the employment is for teaching kindergarten through grade 12, the service must have been performed as a certified teacher.

(c) Members may not receive credit for service as a student employed by a private elementary, secondary, or postsecondary educational institution.

(2) (a) For each year of service to be credited, a member who became a member before July 1, 1989, shall contribute to the retirement system an amount equal to the combined employer and employee contribution for the member's first full year's teaching salary earned after becoming a member of the retirement system or after returning to the retirement system, whichever is later, plus interest. The contribution rate must be that rate in effect at the time the member is eligible to purchase the service.

(b) For each year of service to be credited under this section, a member who became a member on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the system.

(3) The interest on contributions required under subsection (2)(a) must be paid:

(a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contributions would have earned had the contributions been in the member's account from the date the member was eligible to purchase the service; or

(b) if a written application to purchase service is signed ~~[on or]~~ *on or* after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(4) The contributions and interest may be made in lump-sum payment or in installments as agreed between the person and the retirement board.

(5) The provisions of 19-20-405 apply to creditable service purchased under this section."

Section 13. Section 19-20-410, MCA, is amended to read:

"19-20-410. Creditable service for extension service employment. (1) (a) At any time before retirement, a member with 5 years or more of creditable service in the retirement system may file a written application with the retirement board to purchase up to 5 years of employment service with the Montana cooperative extension service, subject to the limitation contained in 19-20-405, if:

(i) the member became a member of the retirement system before July 1, 1989;

(ii) the service involved instructional service at a unit of the Montana university system; and

(iii) the member received a refund of membership contributions under the civil service retirement system or the federal employees' retirement system for the service to be purchased.

(b) For each year of service to be purchased under subsection (1)(a), the member shall contribute to the retirement system an amount equal to the combined employer and employee contribution rate in effect at the time that the member is eligible to purchase the service multiplied by the member's first full year's teaching salary earned after becoming a member of the retirement system, plus interest paid as follows:

(i) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contribution would have earned had the contribution been in the member's account upon the completion of 5 years of membership service; or

(ii) if a written application to purchase service is signed ~~[on or]~~ *on or* after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(2) In addition to service purchased under subsection (1) and subject to 19-20-407, a member who has purchased 5 years or more of creditable service in the retirement system may purchase additional years of cooperative extension service by contributing to the system the full actuarial cost of the service.

(3) Contributions to purchase service under this section may be made in a lump-sum payment or in installments as agreed upon by the member and the retirement board."

Section 14. Section 20-1-213, MCA, is amended to read:

"20-1-213. Transfer of school records. (1) Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

(2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall notify the requestor in writing or electronically providing the reasons why the local educational agency or accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited school shall provide the date by which the requested records will be transferred.

(3) A local educational agency or accredited school may not refuse to transfer files because a student owes fines or fees.

(4) The files that are forwarded must include education records in the permanent file, special education records, and any disciplinary actions taken against the student that are educationally related.

(5) A local educational agency or accredited school may release student information to the juvenile justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records are released

under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy Act of 1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official that the information will not, except as provided by law, be disclosed to any other party without prior written consent of the parent of the student.

(6) The superintendent of public instruction is encouraged to contact other states or provinces and may enter into reciprocal records transfer agreements with the superintendent of public instruction or a department of education of any state or province. The superintendent of public instruction shall supply a copy of any reciprocal records transfer agreement that is executed to the county superintendent of each county that may be affected by the agreement.

(7) Upon request, the local educational agency or accredited school shall transfer by mail or electronically a copy of the permanent file to a nonpublic school or facility.

(8) (a) By November 1 and March 1 of each school fiscal year, a local educational agency shall prepare a report to be provided to the director of the Montana youth challenge program subject to subsections (8)(b) and (8)(c) containing the name, last-known address, and dates of attendance of a student who:

(i) is at least 16 years of age but less than 19 years of age;

(ii) was enrolled but is no longer enrolled in a school in the district;

(iii) has not provided school transfer or graduation information to a school in the district; and

(iv) has not received a high school diploma or ~~general educational development certificate~~ *a high school equivalency diploma*.

(b) After preparing the report in accordance with subsection (8)(a), a local educational agency shall provide written notice to the parent or guardian of the student or to the student if the student is at least 18 years of age or is under 18 years of age and emancipated that the agency intends to provide the report to the director of the Montana youth challenge program. The parent or guardian or the student must be given the opportunity to object to the planned disclosure of the information. If the parent or guardian or the student fails to respond to the notice within 30 days, the local educational agency shall forward the report to the director of the Montana youth challenge program.

(c) The report provided by the local educational agency may not include a student who:

(i) is receiving medical care or treatment that prohibits school attendance;

(ii) is enrolled in a foreign exchange program;

(iii) is enrolled in an early admissions college program;

(iv) is participating in a job corps program, an adult basic education program, or an accredited apprenticeship program; or

(v) is excused from school for a reason determined acceptable by the local educational agency.

(d) The official to whom the information in subsection (8)(a) is provided shall certify in writing to the local educational agency that is providing the information that the information will not be disclosed to any other party except as necessary to recruit and retain students.

(9) As used in this section, "local educational agency" means a public school district or a state-funded school."

Section 15. Section 33-22-703, MCA, is amended to read:

"33-22-703. Coverage for mental illness, alcoholism, and drug addiction. A group health plan or a health insurance issuer that provides group health insurance coverage shall provide for Montana residents covered by the plan at least the following level of benefits for the necessary care and treatment of mental illness, alcoholism, and drug addiction:

(1) under basic inpatient expense policies or contracts, inpatient hospital benefits and outpatient benefits consisting of durational limits, dollar limits, deductibles, and coinsurance factors that are not less favorable than for physical illness generally, except that:

(a) inpatient treatment for mental illness is subject to a maximum yearly benefit of 21 days;

(b) inpatient treatment for mental illness may be traded on a 2-for-1 basis for a benefit for partial hospitalization through a program that complies with the standards for a partial hospitalization program that are published by the ~~American association for partial hospitalization~~ *association for ambulatory behavioral healthcare* if the program is operated by a hospital;

(c) inpatient and outpatient treatment for alcoholism and drug addiction, excluding costs for medical detoxification, is subject to a maximum benefit of $6,000 for a 12-month period until a lifetime maximum inpatient benefit of $12,000 is met, after which the annual benefit may be reduced to $2,000; and

(d) costs for medical detoxification treatment must be paid the same as any other illness under the terms of the contract and are not subject to the annual and lifetime limits in subsection (1)(c);

(2) under major medical policies or contracts, inpatient benefits and outpatient benefits consisting of durational limits, dollar limits, deductibles, and coinsurance factors that are not less favorable than for physical illness generally, except that:

(a) inpatient treatment for mental illness is subject to a maximum yearly benefit of 21 days;

(b) inpatient treatment for mental illness may be traded on a 2-for-1 basis for a benefit for partial hospitalization through a program that complies with the standards for a partial hospitalization program that are published by the ~~American association for partial hospitalization~~ *association for ambulatory behavioral healthcare* if the program is operated by a hospital;

(c) inpatient and outpatient treatment for alcoholism and drug addiction, excluding costs for medical detoxification, may be subject to a maximum benefit of $6,000 for a 12-month period until a lifetime maximum inpatient benefit of $12,000 is met, after which the annual benefit may be reduced to $2,000;

(d) costs for medical detoxification treatment must be paid the same as any other illness under the terms of the contract and are not subject to the annual and lifetime benefits in subsection (2)(c); and

(e) outpatient treatment for mental illness may be subject to a maximum yearly benefit of no less than $2,000, but this subsection (2)(e) does not apply to benefits for services furnished before September 30, 2001."

Section 16. Section 37-47-101, MCA, is amended to read:

"37-47-101. (Temporary) Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in

the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Board" means the board of outfitters provided for in 2-15-1773.

(3) "Business entity" means any version of a proprietorship, partnership, corporation, or limited liability company.

(4) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(5) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(6) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(7) "License year" means the period indicated on the face of the license for which the license is valid.

(8) "Net client hunter use" or "NCHU" means the number of clients authorized to be served by an outfitter on private and state land and on any federal land where an outfitter's use of the federal land is not limited by some means other than NCHU.

(9) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal, facilities, camping equipment, vehicle, watercraft, or other conveyance, or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or outfitter's assistant in accompanying that person.

(10) "Outfitter's assistant" means a person who is employed or retained by and directed by a licensed outfitter to perform the tasks of a guide, but the person may not represent to the public that the person is an outfitter~~,~~ *or* guide~~, [or professional guide]~~.

(11) "Participant" means a person using the services offered by a licensed outfitter. (Terminates August 31, 2015—sec. 11, Ch. 241, L. 2013.)

37-47-101. (Effective September 1, 2015) Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

(2) "Board" means the board of outfitters provided for in 2-15-1773.

(3) "Business entity" means any version of a proprietorship, partnership, corporation, or limited liability company.

(4) "Consideration" means something of value given or done in exchange for something of value given or done by another.

(5) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(6) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

(7) "License year" means the period indicated on the face of the license for which the license is valid.

(8) "Net client hunter use" or "NCHU" means the number of clients authorized to be served by an outfitter on private and state land and on any federal land where an outfitter's use of the federal land is not limited by some means other than NCHU.

(9) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal, facilities, camping equipment, vehicle, watercraft, or other conveyance, or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide in accompanying that person.

(10) "Participant" means a person using the services offered by a licensed outfitter."

Section 17. Section 39-71-703, MCA, is amended to read:

"39-71-703. Compensation for permanent partial disability. (1) If an injured worker suffers a permanent partial disability and is no longer entitled to temporary total or permanent total disability benefits, the worker is entitled to a permanent partial disability award if that worker:

(a) has an actual wage loss as a result of the injury; and

(b) has a permanent impairment rating as determined by the sixth edition of the American medical association Guides to the Evaluation of Permanent Impairment for the ratable condition. The ratable condition must be a direct result of the compensable injury or occupational disease that:

(i) is not based exclusively on complaints of pain;

(ii) is established by objective medical findings; and

(iii) is more than zero.

(2) When a worker receives a Class 2 or greater class of impairment as converted to the whole person, as determined by the sixth edition of the American medical association Guides to the Evaluation of Permanent Impairment for the ratable condition, and has no actual wage loss as a result of the compensable injury or occupational disease, the worker is eligible to receive payment for an impairment award only.

(3) The permanent partial disability award must be arrived at by multiplying the percentage arrived at through the calculation provided in subsection (5) by 400 weeks.

(4) A permanent partial disability award granted an injured worker may not exceed a permanent partial disability rating of 100%.

(5) The percentage to be used in subsection (4) must be determined by adding all of the following applicable percentages to the whole person impairment rating:

(a) if the claimant is 40 years of age or younger at the time of injury, 0%; if the claimant is over 40 years of age at the time of injury, 1%;

(b) for a worker who has completed less than 12 years of education, 1%; for a worker who has completed 12 years or more of education or who has received a ~~graduate~~ *high school* equivalency diploma, 0%;

(c) if a worker has no actual wage loss as a result of the industrial injury, 0%; if a worker has an actual wage loss of $2 or less an hour as a result of the

industrial injury, 10%; if a worker has an actual wage loss of more than $2 an hour as a result of the industrial injury, 20%. Wage loss benefits must be based on the difference between the actual wages received at the time of injury and the wages that the worker earns or is qualified to earn after the worker reaches maximum healing.

(d) if a worker, at the time of the injury, was performing heavy labor activity and after the injury the worker can perform only light or sedentary labor activity, 5%; if a worker, at the time of injury, was performing heavy labor activity and after the injury the worker can perform only medium labor activity, 3%; if a worker was performing medium labor activity at the time of the injury and after the injury the worker can perform only light or sedentary labor activity, 2%.

(6) The weekly benefit rate for permanent partial disability is 66 2/3% of the wages received at the time of injury, but the rate may not exceed one-half the state's average weekly wage. The weekly benefit amount established for an injured worker may not be changed by a subsequent adjustment in the state's average weekly wage for future fiscal years.

(7) An undisputed impairment award may be paid biweekly or in a lump sum at the discretion of the worker. Lump sums paid for impairments are not subject to the requirements of 39-71-741, except that lump-sum payments for benefits not accrued may be reduced to present value at the rate established by the department pursuant to 39-71-741(5).

(8) If a worker suffers a subsequent compensable injury or injuries to the same part of the body, the award payable for the subsequent injury may not duplicate any amounts paid for the previous injury or injuries.

(9) If a worker is eligible for a rehabilitation plan, permanent partial disability benefits payable under this section must be calculated based on the wages that the worker earns or would be qualified to earn following the completion of the rehabilitation plan.

(10) As used in this section:

(a) "heavy labor activity" means the ability to lift over 50 pounds occasionally or up to 50 pounds frequently;

(b) "medium labor activity" means the ability to lift up to 50 pounds occasionally or up to 25 pounds frequently;

(c) "light labor activity" means the ability to lift up to 20 pounds occasionally or up to 10 pounds frequently; and

(d) "sedentary labor activity" means the ability to lift up to 10 pounds occasionally or up to 5 pounds frequently."

Section 18. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of health care provider by worker — insurer designation or approval of treating physician or referral to managed care or preferred provider organization — payment terms — definition. (1) Prior to the insurer's designation or approval of a treating physician as provided in subsection (2) or a referral to a managed care organization or preferred provider organization as provided in subsection (8), a worker may choose a person who is listed in 39-71-116(41) for initial treatment. Subject to subsection (2), if the person listed under 39-71-116(41) chosen by the worker agrees to comply with the requirements of subsection (2), that person is the treating physician.

(2) Any time after acceptance of liability by an insurer, the insurer may designate or approve a treating physician who agrees to assume the

responsibilities of the treating physician. The designated or approved treating physician:

(a) is responsible for coordinating the worker's receipt of medical services as provided in 39-71-704;

(b) shall provide timely determinations required under this chapter, including but not limited to maximum medical healing, physical restrictions, return to work, and approval of job analyses, and shall provide documentation;

(c) shall provide or arrange for treatment within the utilization and treatment guidelines or obtain prior approval for other treatment; and

(d) shall conduct or arrange for timely impairment ratings.

(3) The treating physician may refer the worker to other health care providers for medical services, as provided in 39-71-704, for the treatment of a worker's compensable injury or occupational disease. A health care provider to whom the worker is referred by the designated treating physician is not responsible for coordinating care or providing determinations as required of the treating physician.

(4) The treating physician designated or approved by the insurer must be reimbursed at 110% of the department's fee schedule.

(5) A health care provider to whom the worker is referred by the treating physician must be reimbursed at 90% of the department's fee schedule.

(6) A health care provider providing health care on a compensable claim prior to the designation or approval of the treating physician by the insurer must be reimbursed at 100% of the department's fee schedule.

(7) Regardless of the date of injury, the medical fee schedule rates in effect as adopted by the department in 39-71-704 and the percentages referenced in subsections (4) through (6) of this section apply to the medical service on the date on which the medical service was provided.

(8) The insurer may direct the worker to a managed care organization or a preferred provider organization for designation of the treating physician.

(9) After the insurer directs a worker to a managed care organization or preferred provider organization, a health care provider who otherwise qualifies as a treating physician but who is not a member of a managed care organization may not provide treatment unless authorized by the insurer.

(10) After the date that a worker ~~[whose injury is]~~ subject to the provisions of subsection (9) receives individual written notice of a referral, the worker must, unless otherwise authorized by the insurer, receive medical services from the organization designated by the insurer, in accordance with 39-71-1102 and 39-71-1104. The designated treating physician in the organization then becomes the worker's treating physician. The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment for a compensable injury from a health care provider who is not a member of a managed care organization or a preferred provider organization.

(11) Posting of managed care requirements in the workplace on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means does not constitute individual written notice. To constitute individual written notice under this section, information regarding referral to a managed care organization must be provided to the worker in written form by mail or in person after the date of injury or occupational disease."

Section 19. Section 41-2-103, MCA, is amended to read:

"41-2-103. Definitions. As used in this part, the following definitions apply:

(1) "Agriculture" means:

(a) all aspects of farming, including the cultivation and tillage of the soil;

(b) (i) dairying; and

(ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act, 12 U.S.C. 1141j(g);

(c) the raising of livestock, bees, fur-bearing animals, or poultry; and

(d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Domestic service" means an occasional, irregular, or incidental nonhazardous occupational activity related to and conducted in or around a private residence, including but not limited to babysitting, pet sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial homework.

(4) (a) "Employed" or "employment" means an occupation engaged in, permitted, or suffered, with or without compensation in money or other valuable consideration, whether paid to the minor or to some other person, including but not limited to occupations as servant, agent, subagent, or independent contractor.

(b) The term does not include casual, community service, nonrevenue raising, uncompensated activities.

(5) "Employer" includes an individual, partnership, association, corporation, business trust, person, or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(6) "Minor" means an individual under 18 years of age, except for an individual who:

(a) has received a high school diploma or ~~has received a passing score on the general educational development examination~~ *a high school equivalency diploma*; or

(b) is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program.

(7) "Occupation" means:

(a) an occupation, service, trade, business, or industry in which employees are employed;

(b) any branch or group of industries in which employees are employed; or

(c) any employment or class of employment in which employees are employed."

Section 20. Section 45-7-309, MCA, is amended to read:

"45-7-309. Criminal contempt. (1) A person commits the offense of criminal contempt when the person knowingly engages in any of the following conduct:

(a) disorderly, contemptuous, or insolent behavior committed during the sitting of a court in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;

(b) breach of the peace, noise, or other disturbance directly tending to interrupt a court's proceeding;

(c) purposely disobeying or refusing any lawful process or other mandate of a court;

(d) unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory;

(e) purposely publishing a false or grossly inaccurate report of a court's proceeding;

(f) purposely failing to obey any mandate, process, or notice relative to juries issued pursuant to Title 3, chapter 15; or

(g) purposely failing to comply with the requirements of the *24/7* sobriety *and drug monitoring* program provided for in Title 44, chapter 4, part 12, if ordered by a court to participate in the program.

(2) A person convicted of the offense of criminal contempt shall be fined not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 21. Section 45-9-203, MCA, is amended to read:

"45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card issued pursuant to ~~50-45-307~~ *50-46-307* or 50-46-308 is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under 50-46-330."

Section 22. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend

execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-310, 45-5-311, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) participation in the *24/7* sobriety *and drug monitoring* program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(p) participation in a restorative justice program approved by court order and payment of a participation fee of up to $150 for program expenses if the program agrees to accept the offender;

(q) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(r) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(q).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."

Section 23. Section 46-18-245, MCA, is amended to read:

"46-18-245. Supervision of payment. For a felony offense, the court shall order the department of corrections to supervise the payment of restitution. For a misdemeanor offense, the court may order a restitution officer or other designated person to supervise the making of restitution and to report to the court any default in payment. If the victim of a misdemeanor has received compensation under Title 53, chapter 9, the court may also order an employee of the office of victims services, ~~as defined in 53-9-103~~ *provided for in 2-15-2016*, to supervise the making of restitution and to report to the court any default in payment."

Section 24. Section 46-18-256, MCA, is amended to read:

"46-18-256. Sexually transmitted disease testing — test procedure. (1) Following entry of judgment, a person convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, must, at the request of the victim of the sexual offense or the parent or guardian of the victim, if the victim is a minor, be administered standard testing according to currently accepted protocol, using guidelines established by the centers for disease control *and prevention*, U.S. department of health and human services, to detect in the person the presence of antibodies indicative of the presence of human immunodeficiency virus (HIV) or other sexually transmitted diseases, as defined in 50-18-101.

(2) Arrangements for the test required by subsection (1) must be made by the county attorney of the county in which the person was convicted. The test must be conducted by a health care provider, as defined in 50-16-504.

(3) The county attorney of the county in which the person was convicted shall release the information concerning the test results to:

(a) the convicted person; and

(b) the victim of the offense committed by the convicted person or to the parent or guardian of the victim if the victim is a minor.

(4) At the request of the victim of a sexual offense or the parent or guardian of the victim if the victim is a minor, the victim must be provided counseling regarding HIV disease, HIV testing (in accordance with applicable law), and referral for appropriate health care and support services.

(5) For purposes of this section, "convicted" includes an adjudication, under the provisions of 41-5-1502, finding a youth to be a delinquent youth or a youth in need of intervention.

(6) The provisions of the AIDS Prevention Act, Title 50, chapter 16, part 10, do not apply to this section."

Section 25. Section 46-23-1027, MCA, is amended to read:

"46-23-1027. Parole achievement credit. (1) The department shall acknowledge achievements by a parolee who, by completion of an activity described in subsection (2), has shown a willingness to reenter society as a productive and responsible member.

(2) The department shall acknowledge achievements, such as:

(a) obtaining a high school diploma or ~~general equivalency diploma~~ *a high school equivalency diploma*;

(b) obtaining a degree from an accredited postsecondary educational institution;

(c) completion of an approved apprenticeship program;

(d) completion of an accredited vocational certification program;

(e) employment of at least 20 scheduled hours a week, for 6 or more months;

(f) attendance at a faith-based, social service, or rehabilitation activity for 6 or more months; or

(g) any other achievement designated by a department rule."

Section 26. Section 50-2-109, MCA, is amended to read:

"50-2-109. County board appropriations. County boards are financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 7, chapter 6, ~~part 23~~ *part 40*."

Section 27. Section 53-4-209, MCA, is amended to read:

"53-4-209. Montana parents as scholars program — department duties. (1) There is a Montana parents as scholars program administered by the department.

(2) The department shall:

(a) use state maintenance of effort funds or temporary assistance for needy families funds in a program to provide assistance to eligible households for the purpose of continuation of education leading toward a high school diploma, a ~~general equivalency degree~~ *high school equivalency diploma*, vocational training, an associate's degree, or a baccalaureate degree;

(b) allow an individual receiving temporary assistance for needy families to attend an approved educational program if the individual:

(i) meets the income and resource eligibility requirements for temporary assistance for needy families; and

(ii) qualifies as a full-time student pursuant to subsection (4); and

(c) limit approved educational programs to educational courses that are intended to promote economic self-sufficiency, not to exceed the baccalaureate level.

(3) The participants may apply for and may be eligible for child-care assistance provided by the department to be paid from the temporary assistance for needy families block grant funds that are transferred to discretionary funding for child care.

(4) A program must require a participant to be a full-time student, which means that a participant:

(a) shall maintain enrollment in at least 12 credit hours each semester or 30 credit hours a year; or

(b) must be a full-time high school student, ~~GED~~ student *studying for a high school equivalency diploma*, or vocational training student as defined by the institution in which the participant is enrolled;

(c) shall maintain a 2.0 grade point average on a 4.0 grade point scale or be making satisfactory progress as defined by the institution in which the participant is enrolled; and

(d) may not be allowed to remain in the program after receiving a baccalaureate degree.

(5) (a) There may be no more than 25 participants in the program at any one time.

(b) Temporary assistance for needy families participants within the 12-month period allowed by federal law do not count in the total number of

participants in the parents as scholars program. However, the parents as scholars program may be used to extend a participant's education beyond the 12-month federal period.

(6) The department shall provide annual reports to the legislative finance committee and the children, families, health, and human services interim committee."

Section 28. Section 61-10-121, MCA, is amended to read:

"61-10-121. Permits for excess size and weight — exempt from environmental review — agents. (1) (a) Upon application and with good cause shown, the department of transportation, or its agent under subsection ~~(3)~~ *(4)*, and local authorities in their respective jurisdictions may issue telephonically or in writing a special permit authorizing the applicant to operate or move a vehicle, combination of vehicles, load, object, or other thing of a size or weight exceeding the maximum specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 upon a highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible. However, only the department may issue permits for movement of a vehicle or combination of vehicles carrying built-up or reducible loads in excess of 9 feet in width or exceeding the length, height, or weight specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. This permit must be issued in the public interest. A carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. A permit may not be issued for a period greater than the period for which the GVW license is valid, including grace periods, as provided in this title. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department, purchase permits to expire with their registration. A license required by the state governs the issuance of a special permit.

(b) The department may issue *oversize permits* to dealers in implements of husbandry and self-propelled machinery ~~oversize permits~~. The permits may be transferred from unit to unit by the dealer~~,~~ for the fee set forth in 61-10-124. These oversize permits may not restrict dealers in implements of husbandry and self-propelled machinery from traveling on a Saturday or Sunday and expire on December 31 of each year, with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery must be a resident of the state. A post-office box number is not a permanent address under this section.

(2) The applicant for a special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle, combination of vehicles, load, object, or other thing to be operated or moved and the particular state highways over which the vehicle, combination of vehicles, load, object, or other thing is to be moved and whether the permit is required for a single trip or for continuous operation.

(3) Issuance of a permit pursuant to this section is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when existing roads through existing rights-of-way are used.

(4) The department may enter into a contract with a private party to act as an agent of the department for the purpose of issuing, in writing, a special permit allowed under this section."

Section 29. Section 69-13-302, MCA, is amended to read:

"69-13-302. Connection and interchange facilities. (1) Each common carrier shall exchange crude petroleum tonnage, coal tonnage, petroleum or coal

products tonnage, or carbon dioxide volume with each similar common carrier. The commission may require connections and facilities for the interchange of the tonnage and volume to be made at every locality reached by both pipelines whenever a necessity for the connections and facilities exists, subject to rates and regulations that may be made by the commission. Any common carrier under similar rules must be required to install and maintain facilities for the receipt and delivery at all points on the pipeline of crude petroleum, coal, or the products of crude petroleum or coal or of carbon dioxide from a plant or facility that produces or captures carbon dioxide.

(2) A carrier may not be required to receive or transport any crude petroleum, coal, or the products of crude petroleum or coal or any carbon dioxide from a plant or facility that produces or captures carbon dioxide except as may be marketable under rules prescribed by the commission. The commission shall make rules for the ascertainment of the amount of water and other foreign matter in crude ~~oil~~ *petroleum*, coal, or the products of crude petroleum or coal or in carbon dioxide from a plant or facility that produces or captures carbon dioxide tendered for transportation, for deduction for water and foreign matter, and for the amount of deduction to be made for temperature, leakage, and evaporation.

(3) The particular powers delegated to the commission in this section may not be construed to limit the general powers conferred by this chapter."

Section 30. Section 72-5-446, MCA, is amended to read:

"72-5-446. Consent or lack of capacity of protected person — adequate provision for protected person and dependents. The court may make an order authorizing or requiring the proposed action under ~~72-38-444~~ *72-5-444* through ~~72-38-450~~ *72-5-450* only if the court determines all of the following:

(1) the protected person either:

(a) is not opposed to the proposed action; or

(b) if opposed to the proposed action, lacks legal capacity for the proposed action; and

(2) either the proposed action will have no adverse effect on the estate or the estate remaining after the proposed action is taken will be adequate to provide for the needs of the protected person and for the support of those legally entitled to support, maintenance, and education from the protected person, taking into account the age, physical condition, standards of living, and all other relevant circumstances of the protected person and of those legally entitled to support, maintenance, and education from the protected person."

Section 31. Section 72-38-111, MCA, is amended to read:

"72-38-111. Nonjudicial settlement agreements. (1) For purposes of this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

(2) Except as otherwise provided in subsection ~~(4)(c)~~ *(3)*, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(3) Except as provided in 72-38-411(1), a nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this chapter.

(4) Matters that may be resolved by a nonjudicial settlement agreement include but are not limited to:

(a) the interpretation or construction of the terms of the trust;

(b) the approval of a trustee's report or accounting;

(c) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

(d) the resignation or appointment of a trustee and the determination of a trustee's compensation;

(e) transfer of a trust's principal place of administration; and

(f) liability of a trustee for an action relating to the trust.

(5) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in Title 72, chapter 38, part 3, was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved."

Section 32. Section 72-38-132, MCA, is amended to read:

"72-38-132. Content of notice. The notice of proposed action or notice of proposed inaction must state that it is given pursuant to this part and must include all of the following:

(1) the name and mailing address of the trustee;

(2) the name and telephone number of a person who may be contacted for additional information;

(3) a description of the action or inaction proposed, the material facts upon which the trustee has relied in making its decision regarding the proposed action or inaction, and an explanation of the reasons for the action or inaction;

(4) a statement that failure of a qualified beneficiary to object within the allowed time bars the qualified beneficiary from taking any legal action against the trustee for liability within the scope of 72-38-133 except as provided in 72-38-133(3) and that a qualified beneficiary may want to seek independent legal advice regarding the matter at the qualified beneficiary's expense;

~~(5) the time within which objections to the proposed action or inaction can be made, which must be at least 30 days from providing the notice of proposed action or notice of proposed inaction;~~

~~(6)~~*(5)* the time within which objections to the proposed action or inaction can be made, which must be at least 30 days from providing the notice of proposed action or notice of proposed inaction; and

~~(7)~~*(6)* the date on or after which the proposed action or inaction is effective."

Section 33. Section 72-38-301, MCA, is amended to read:

"72-38-301. Representation — basic effect. (1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation by notifying the trustee or representative before the consent would otherwise have become effective.

(3) Except as otherwise provided in ~~72-38-410~~ *72-38-411* and 72-38-602, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(4) A settlor may not represent and bind a beneficiary under this part with respect to the termination or modification of a trust under ~~72-38-410(1)~~ *72-38-411(1)*."

Section 34. Section 72-38-802, MCA, is amended to read:

"72-38-802. Duty of loyalty. (1) A trustee shall administer the trust solely in the interests of the beneficiaries.

(2) Subject to the rights of persons dealing with or assisting the trustee as provided in ~~72-38-1013~~ *72-38-1012*, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(a) the transaction was authorized by the terms of the trust;

(b) the transaction was approved by the court;

(c) the beneficiary did not commence a judicial proceeding within the time allowed by 72-38-1005;

(d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with 72-38-1009; or

(e) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(3) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

(a) the trustee's spouse;

(b) the trustee's descendants, siblings, parents, or their spouses;

(c) an agent or attorney of the trustee; or

(d) a corporation or other person or enterprise in which the trustee, or a person who owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

(4) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary. However, a beneficiary's gift to charity or to a trust for a charity's benefit is not voidable by this subsection even though the charity may be, or may have been, serving as trustee of a trust created for the benefit of the beneficiary.

(5) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(6) An investment by a trustee in securities of an investment company or investment trust to which the trustee or its affiliate provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the prudent investor rule of Title 72, chapter 38, part 9. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment

management services, the trustee must at least annually notify the persons entitled under 72-38-813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(7) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(8) This section does not preclude the following transactions, if fair to the beneficiaries:

(a) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(b) payment of reasonable compensation to the trustee;

(c) a transaction between a trust and another trust, decedent's estate, or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

(d) a deposit of trust money in a regulated financial-service institution operated by the trustee; or

(e) an advance by the trustee of money for the protection of the trust.

(9) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee."

Section 35. Section 75-1-102, MCA, is amended to read:

"75-1-102. Intent — purpose. (1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the Montana Environmental Policy Act. The Montana Environmental Policy Act is procedural, and it is the legislature's intent that the requirements of parts 1 through 3 of this chapter provide for the adequate review of state actions in order to ensure that:

(a) environmental attributes are fully considered by the legislature in enacting laws to fulfill constitutional obligations; and

(b) the public is informed of the anticipated impacts in Montana of potential state actions.

(2) The purpose of parts 1 through 3 of this chapter is to declare a state policy that will encourage productive and enjoyable harmony between humans and their environment, to protect the right to use and enjoy private property free of undue government regulation, to promote efforts that will prevent, mitigate, or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans, to enrich the understanding of the ecological systems and natural resources important to the state, and to establish an environmental quality council.

(3) (a) The purpose of requiring an environmental assessment and an environmental impact statement under part 2 of this chapter is to assist the legislature in determining whether laws are adequate to address impacts to Montana's environment and to inform the public and public officials of potential impacts resulting from decisions made by state agencies.

(b) Except to the extent that an applicant agrees to the incorporation of measures in a permit pursuant to ~~75-1-201(6)(b)~~ *75-1-201(4)(b)*, it is not the

purpose of parts 1 through 3 of this chapter to provide for regulatory authority, beyond authority explicitly provided for in existing statute, to a state agency."

Section 36. Section 77-1-103, MCA, is amended to read:

"77-1-103. Administration of lands. (1) The board shall sell lands under 77-1-102(1) in the same manner as other school lands of the state are sold.

(2) The board may sell the lands under 77-1-102(1) or lease the lands under 77-1-102 without having them surveyed~~,~~ unless the board considers it to be to the best interests of the state to have the lands surveyed as in 77-1-104.

(3) The proceeds from the leasing and sale of the lands under 77-1-102 must be disposed of in the same manner as disposition is made of the proceeds from the leasing and sale of school lands of the state.

(4) The income received from the leasing, licensing, or other use of lands under 77-1-102(1) or riverbeds under ~~77-1-102(2)~~ *77-1-102(3)* must be deposited in accordance with 17-3-1003(5)."

Section 37. Section 77-1-218, MCA, is amended to read:

"77-1-218. Public school land acquisition account. (1) There is a public school land acquisition account in the state special revenue fund established in 17-2-102. The account must be administered by the department.

(2) Money in the account may be used only for the purpose of purchasing and managing interests in and appurtenances to real property in accordance with 77-1-219.

(3) After deductions are made pursuant to 77-1-109 and 77-1-613, the net interest and income earned on real property and appurtenances purchased with funds from the account must be distributed to the school facility ~~improvement~~ *and technology* account provided for in 20-9-516."

Section 38. Section 82-2-203, MCA, is amended to read:

"82-2-203. Proceedings to obtain right-of-way. Whenever the owner desires to work a mine or mining claim and it is necessary ~~to enable the owner to do so successfully and conveniently~~ that the owner ~~should~~ have a right-of-way for any of the purposes mentioned in ~~85-2-201 and 85-2-202~~ *82-2-201 and 82-2-202 in order to work the mine or mining claim successfully and conveniently* and if the right-of-way has not been acquired by agreement between the owner of the mining claim and the owner of the land or claims over, under, across, and upon which the mining claim owner seeks to establish the right-of-way, it is lawful for the mining claim owner to present to the judge of the district court a complaint asking that the right-of-way be ~~awarded~~ *granted*. The complaint must be verified and contain a particular description of the character and extent of the right sought, a description of the mine or mining claim of the owner, and the mining claim or claims and the land to be affected by the right-of-way, with the names of the occupants or owners of the affected land, and may also set forth any tender or offer."

Section 39. Section 87-2-525, MCA, is amended to read:

"87-2-525. Class B-14—nonresident college student big game combination license. (1) A student who is not a resident, as defined in 87-2-102, may purchase a Class B-14 nonresident college student big game combination license for the same price as a Class AAA combination sports license if that student:

(a) is currently enrolled as a full-time student at a postsecondary educational institution in Montana, with 12 credits or more being considered full-time; or

(b) (i) has a natural or adoptive parent who currently is a Montana resident, as defined in 87-2-102;

(ii) has a high school diploma from a Montana public, private, or home school or can provide certified verification that the applicant has ~~passed the general educational development test~~ *a high school equivalency diploma issued* in Montana; and

(iii) is currently enrolled as a full-time student at a postsecondary educational institution in another state.

(2) The holder of a Class B-14 license is entitled to all the privileges of a Class B license, a Class B-1 license, a Class B-7 license, an elk tag, and a nonresident wildlife conservation license.

(3) Application for a Class B-14 nonresident college student big game combination license may be made after the second Monday in September at any department regional office or at the department headquarters in Helena. To qualify, the applicant shall present a valid student identification card and verification of current full-time enrollment at a postsecondary educational institution as required by the department."

Section 40. Directions to code commissioner. The code commissioner is directed to implement 1-11-101(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana Code Annotated contained in material enacted by the 64th legislature and previous legislatures.

Approved February 25, 2015

CHAPTER NO. 56

[SB 81]

AN ACT REVISING MEMBERSHIP OF CERTAIN LICENSING BOARDS; INCREASING THE NUMBER OF REGISTERED NURSES AND REDUCING THE NUMBER OF LICENSED PRACTICAL NURSES ON THE BOARD OF NURSING; INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF CHIROPRACTORS AND REMOVING A LIMITATION ON MEMBERSHIP; REMOVING MANDATORY INCLUSION OF A LICENSED AUDIOLOGIST ON THE BOARD OF HEARING AID DISPENSERS AND REVISING OTHER MEMBERSHIP QUALIFICATIONS; REMOVING POLITICAL AFFILIATION REQUIREMENTS FOR THE BOARD OF REALTY REGULATION; CLARIFYING HUNTING AND FISHING OUTFITTER QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD OF OUTFITTERS; AMENDING SECTIONS 2-15-1734, 2-15-1737, 2-15-1740, 2-15-1757, AND 2-15-1773, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1734, MCA, is amended to read:

"2-15-1734. Board of nursing. (1) There is a board of nursing.

(2) The board consists of nine members appointed by the governor with the consent of the senate. The members are:

(a) ~~four~~ *five* registered professional nurses, of whom at least one must have had at least 5 years in administrative, teaching, or supervisory experience in one or more schools of nursing, at least one must be an advanced practice registered nurse, at least one must be engaged in nursing practice in a rural health care facility, and at least one must be currently engaged in the

administration, supervision, or provision of direct client care. Each member who is a registered professional nurse must:

(i) be a graduate of an approved school of nursing;

(ii) be a licensed registered professional nurse in this state;

(iii) have had at least 5 years' experience in nursing following graduation; and

(iv) be currently engaged in the practice of professional nursing and have practiced for at least 5 years.

(b) ~~three~~ *two* practical nurses. Each must:

(i) be a graduate of a school of practical nursing;

(ii) be a licensed practical nurse in this state;

(iii) have had at least 5 years' experience as a practical nurse; and

(iv) be currently engaged in the practice of practical nursing and have practiced for at least 5 years.

(c) two public members who are not medical practitioners, involved in the practice of nursing or employment of nursing, or administrators of Montana health care facilities.

(3) All members must have been residents of this state for at least 1 year before appointment and must be citizens of the United States.

(4) All members shall serve staggered 4-year terms, and a member may not be appointed for more than two consecutive terms. The governor may remove a member from the board for neglect of a duty required by law or for incompetency or unprofessional or dishonorable conduct.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 2. Section 2-15-1737, MCA, is amended to read:

"2-15-1737. Board of chiropractors. (1) There is a board of chiropractors.

(2) The board consists of ~~four~~ *five* members appointed by the governor with the consent of the senate. ~~Three~~ *Four* members must be practicing chiropractors of integrity and ability who are residents of this state and who have practiced chiropractic continuously in this state for at least 1 year. ~~No two members may be graduates of the same school or college of chiropractic.~~ One member must be a representative of the public who is not engaged in the practice of chiropractic.

(3) Each member shall serve for a term of 3 years. No member may be appointed for more than two consecutive terms. A member may be removed from office by the governor on sufficient proof of the member's inability or misconduct.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 3. Section 2-15-1740, MCA, is amended to read:

"2-15-1740. Board of hearing aid dispensers. (1) There is a board of hearing aid dispensers.

(2) The board consists of five members appointed by the governor with the consent of the senate, including:

(a) ~~two~~ *three* members, each of whom ~~has been a licensed hearing aid dispenser for at least 5 years, possesses a current audiologist license issued under Title 37, chapter 15, and has a master's level college degree;~~

~~(b) two members, each of whom does not hold a master's level college degree in audiology but has been a licensed dispenser and fitter of hearing aids~~ *must*

possess a current hearing aid dispenser license issued under Title 37, chapter 16, and have been a licensed hearing aid dispenser for at least 5 years before being appointed to the board; and

~~(c)~~*(b)* ~~one~~ *two* public ~~member who is either~~ *members, at least one of whom may not be or have been* an otolaryngologist*,* ~~or a person who is not~~ a licensed hearing aid dispenser*,* or a licensed audiologist*,* and ~~who~~ *at least one of whom must* regularly ~~uses~~ *use* a hearing aid because of a demonstrated hearing impairment. *One public member may meet both the conditions in this subsection (2)(b).*

(3) Each member shall serve for 3-year terms. A member may not be reappointed within 1 year after the expiration of the member's second consecutive full term.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 4. Section 2-15-1757, MCA, is amended to read:

"2-15-1757. Board of realty regulation. (1) There is a board of realty regulation.

(2) The board consists of seven members appointed by the governor with the consent of the senate. Five members must be licensed real estate brokers, salespeople, or property managers who are actively engaged in the real estate business as a broker, a salesperson, or a property manager in this state. Two members must be representatives of the public who are not state government officers or employees and who are not engaged in business as a real estate broker, a salesperson, or a property manager. The members must be residents of this state.

~~(3) Not more than five members, including the presiding officer, may be from the same political party.~~

~~(4)~~*(3)* The members shall serve staggered terms of 4 years. A member may not serve more than two terms or any portion of two terms.

~~(5)~~*(4)* The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 5. Section 2-15-1773, MCA, is amended to read:

"2-15-1773. Board of outfitters. (1) There is a board of outfitters.

(2) The board consists of the following seven members to be appointed by the governor:

(a) one ~~big game hunting~~ outfitter *licensed to provide big game hunting services*;

(b) one ~~fishing~~ outfitter *licensed to provide fishing services but not hunting services*;

(c) two outfitters ~~who are engaged in the~~ *licensed to provide* fishing and hunting ~~outfitting business~~ *services*;

(d) two sportspersons; and

(e) one member of the general public.

(3) A favorable vote of at least a majority of all members of the board is required to adopt any resolution, motion, or other decision.

(4) A vacancy on the board must be filled in the same manner as the original appointment.

(5) The members shall serve staggered 3-year terms and take office on the day they are appointed.

(6) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(7) Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133."

Section 6. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective January 1, 2016.

Approved February 25, 2015

CHAPTER NO. 57

[SB 104]

AN ACT REQUIRING ALL LICENSEES FOR THE BOARD OF MASSAGE THERAPY TO MEET SIMILAR QUALIFICATIONS FOR LICENSURE; REMOVING THE GRANDFATHER STATUS OF CERTAIN LICENSEES; AMENDING SECTION 37-33-501, MCA; AND REPEALING SECTION 37-33-503, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-33-501, MCA, is amended to read:

"37-33-501. License required — enjoining unlawful practice. (1) ~~As of July 1, 2010, a~~ *A* person ~~who is not eligible for a license under 37-33-503~~ may not practice or purport to practice massage therapy without first obtaining a license under the provisions of 37-33-502.

(2) A person who is not licensed as a massage therapist ~~under 37-33-503 or this section~~, whose license has been suspended or revoked, or whose license has lapsed and has not been revived may not use the words or letters "massage therapist", "licensed massage therapist", "L.M.T.", "masseur", or "masseuse" or any other letters, words, or insignia indicating or implying that the person is a licensed massage therapist or in any way, orally, in writing, or in print or by sign, directly or by implication, purport to be a massage therapist.

(3) A person who knowingly violates the provisions of this ~~subsection~~ *section* is guilty of a misdemeanor as provided in 37-33-504."

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

37-33-503. Initial licensure — grandfather clause.

Approved February 25, 2015

CHAPTER NO. 58

[SB 117]

AN ACT REVISING THE MEMBERSHIP OF THE RAIL SERVICE COMPETITION COUNCIL; AMENDING SECTION 2-15-2511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2511, MCA, is amended to read:

"2-15-2511. Rail service competition council. (1) There is a rail service competition council consisting of the following members:

(a) the director of the department of agriculture provided for in 2-15-3001;

(b) the director of the department of transportation provided for in 2-15-2501;

(c) the director of the department of revenue provided for in 2-15-1301;

(d) the chief business development officer of the office of economic development provided for in 2-15-218;

(e) ~~seven~~ *eight* people, appointed by the governor, who shall serve staggered 4-year terms commencing January 1 following their appointment, with the following qualifications:

(i) one person with substantial knowledge and experience related to Class I railroads;

(ii) one person with substantial knowledge and experience related to Class II railroads;

(iii) one person who is a farm commodity producer in the state and who has substantial knowledge and experience related to transportation of farm commodities;

(iv) one person with substantial knowledge and experience in the trucking industry in the state;

(v) one person with substantial knowledge and experience related to transportation for the mineral industry in the state;

(vi) one person with substantial knowledge and experience related to transportation for the coal industry in the state; ~~and~~

(vii) one person with substantial knowledge and experience related to transportation for the wood products industry in the state; and

(viii) one person with substantial knowledge and experience related to rail passenger service provided by amtrak in Montana; and

(f) subject to 5-5-234, two members, one from the majority party and one from the minority party and one from each house of the legislature, from the economic affairs interim committee established in 5-5-223, selected by the presiding officer of the economic affairs interim committee with the concurrence of the vice presiding officer at the first interim committee meeting at the beginning of each interim.

(2) The rail service competition council shall perform the following duties:

(a) promote rail service competition in the state that results in reliable and adequate service at reasonable rates;

(b) develop a comprehensive and coordinated plan to increase rail service competition in the state;

(c) reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden. The reevaluation of the state's railroad taxation practices should include but is not limited to a reevaluation of property taxes, taxes that minimize highway damage, special fuel taxes, and corporate tax rates.

(d) develop various means to assist Montanans impacted by high rates and poor rail service;

(e) analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities;

(f) provide advice and recommendations to the department of transportation on the department's activities under 60-11-113 through 60-11-116;

(g) coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition;

(h) act as the state's liaison in working with Class I railroads to promote rail service competition; and

(i) promote the expansion of existing rail lines and the construction of new rail lines in the state.

(3) ~~(a)~~ The council shall cooperate with and report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues.

~~(b) The council shall report to the 2009 legislature on its activities and its progress in performing the duties required in subsection (2).~~

(4) The council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The council is attached for administrative purposes only to the department of transportation, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to appointments made on or after [the effective date of this act].

Approved February 25, 2015

CHAPTER NO. 59

[SB 164]

AN ACT REVISING DEFINITIONS RELATED TO SKIING; AND AMENDING SECTION 23-2-702, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-702, MCA, is amended to read:

"23-2-702. Definitions. As used in this part, the following definitions apply:

(1) "Freestyle terrain" means terrain parks and terrain features, including but not limited to jumps, rails, fun boxes, half-pipes, quarter-pipes, and freestyle bump terrain, and any other constructed features.

(2) "Inherent dangers and risks of skiing" means those dangers or conditions that are part of the sport of skiing, including:

(a) changing weather conditions;

(b) snow conditions as they exist or as they may change, including ice, hardpack, powder, packed powder, wind pack, corn snow, crust, slush, cut-up snow, and machine-made snow *of any depth or accumulation, including but not limited to any depth or accumulation around or near trees or snowmaking equipment*;

(c) avalanches, except on open, ~~designated~~ *machine-groomed* ski trails;

(d) collisions with natural surface or subsurface conditions, such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, and other natural objects;

(e) collisions with lift towers, signs, posts, fences, enclosures, hydrants, water pipes, or other artificial structures and their components;

(f) variations in steepness or terrain, whether natural or the result of slope design, snowmaking, or snow grooming operations, including but not limited to roads, freestyle terrain, ski jumps, catwalks, and other terrain modifications;

(g) collisions with clearly visible or plainly marked equipment, including but not limited to lift equipment, snowmaking equipment, snow grooming equipment, trail maintenance equipment, and snowmobiles, whether or not the equipment is moving;

(h) collisions with other skiers;

(i) the failure of a skier to ski within that skier's ability;

(j) skiing in a closed area or skiing outside the ski area boundary as designated on the ski area trail map; and

(k) restricted visibility caused by snow, wind, fog, sun, or darkness.

(3) "Passenger" means any person who is being transported or conveyed by a passenger ropeway.

(4) "Passenger ropeway" means a device used to transport passengers by means of an aerial tramway or lift, surface lift, surface conveyor, or surface tow.

(5) "Ski area operator" or "operator" means a person, firm, or corporation and its agents and employees having operational and administrative responsibility for ski slopes and trails and improvements.

(6) "Ski slopes and trails" means those areas designated by the ski area operator to be used by skiers for skiing.

(7) "Skier" means a person who is using any ski area facility for the purpose of skiing, including but not limited to ski slopes and trails.

(8) "Skiing" means any activity, including ~~an organized event~~ *participation in or practice or training for competitions or special events*, that involves sliding or jumping on snow or ice while using skis, a snowboard, or any other sliding device."

Approved February 25, 2015

CHAPTER NO. 60

[HB 27]

AN ACT PROVIDING FOR AN INCREASE IN THE BASIC ENTITLEMENT, THE TOTAL PER-ANB ENTITLEMENT, THE TOTAL AMERICAN INDIAN ACHIEVEMENT GAP PAYMENT, THE TOTAL INDIAN EDUCATION FOR ALL PAYMENT, THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT, AND THE TOTAL QUALITY EDUCATOR PAYMENT; PROVIDING FOR THE CALCULATION OF THE DATA-FOR-ACHIEVEMENT PAYMENT IN 20-9-306 INSTEAD OF 20-9-325; AMENDING SECTIONS 20-9-306 AND 20-9-325, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) starting in fiscal year 2015, the natural resource development K-12 funding payment for a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district, as referenced in subsection (10);

(c) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(d) the total quality educator payment;

(e) the total at-risk student payment;

(f) the total Indian education for all payment;

(g) the total American Indian achievement gap payment; and

(h) the total data-for-achievement payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~$290,000~~ *$300,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$300,000~~ *$305,370* for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) ~~$290,000~~ *$300,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$300,000~~ *$305,370* for each succeeding fiscal year for school districts with an ANB of more than 800, plus ~~$12,000~~ *$15,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$15,000~~ *$15,269* for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~$40,000~~ *$50,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$50,000~~ *$50,895* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) ~~$40,000~~ *$50,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$50,000~~ *$50,895* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus ~~$2,000~~ *$2,500* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$2,500~~ *$2,545* for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) ~~$40,000~~ *$50,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$50,000~~ *$50,895* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) ~~$40,000~~ *$50,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$50,000~~ *$50,895* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus ~~$2,000~~ *$2,500* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$2,500~~ *$2,545* for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) ~~$80,000~~ *$100,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$100,000~~ *$101,790* for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) ~~$80,000~~ *$100,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$100,000~~ *$101,790* for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus ~~$4,000~~ *$5,000* for fiscal ~~years 2014 and 2015~~ *year 2016* and ~~$5,000~~ *$5,090* for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Natural resource development K-12 funding payment" means the payment, starting in fiscal year 2015, of a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a

district. The total payment to school districts may not exceed the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided, plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The amount of the natural resource development K-12 funding payment ~~must be determined as follows:~~

~~(a) for fiscal year 2015, $3 million; and~~

~~(b) for fiscal year 2016 and each subsequent year, the payment~~ must be, subject to the limitations of this subsection (10), an amount sufficient to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The superintendent of public instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with this subsection ~~(10)(b)~~ *(10)* in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112.

(11) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying ~~$200~~ *$205 in fiscal year 2016 and $209 for each succeeding fiscal year* times the number of American Indian students enrolled in the district as provided in 20-9-330.

(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(14) "Total Indian education for all payment" means the payment resulting from multiplying ~~$20.40~~ *$20.88 in fiscal year 2016 and $21.25 for each succeeding fiscal year* times the ANB of the district or $100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$6,555~~ *$6,847* for fiscal year ~~2014~~ *2016* and ~~$6,691~~ *$6,970* for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~$5,120~~ *$5,348* for fiscal year ~~2014~~ *2016* and ~~$5,226~~ *$5,444* for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~$5,120~~ *$5,348* for fiscal year ~~2014~~ *2016* and ~~$5,226~~ *$5,444* for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~$6,555~~ *$6,847* for fiscal year ~~2014~~ *2016* and ~~$6,691~~ *$6,970* for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total data-for-achievement payment" means the payment ~~calculated as~~ provided in 20-9-325 *resulting from multiplying $20 for fiscal year 2016 and $20.36 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311*.

(17) "Total quality educator payment" means the payment resulting from multiplying ~~$3,042~~ *$3,113 in fiscal year 2016 and $3,169 for each succeeding fiscal year* by the number of full-time equivalent educators as provided in 20-9-327."

Section 2. Section 20-9-325, MCA, is amended to read:

"20-9-325. Data-for-achievement payment. (1) The state shall provide a data-for-achievement payment to public school districts as defined in 20-6-101 and 20-6-701. The data-for-achievement payment is ~~the district's ANB,~~ calculated ~~in accordance with 20-9-311, multiplied by:~~

~~(a) $10 for fiscal year 2014;~~

~~(b) $15 for fiscal year 2015; and~~

~~(c) $20 for fiscal year 2016 and subsequent fiscal years~~ *as provided in 20-9-306*.

(2) Funds received for the data-for-achievement payment must be used by a school district to pay for access fees or other costs associated with use of or participation in the statewide data system administered by the office of public instruction or a comparable data system provided by a private vendor, including data entry and staff training on use of the systems.

(3) Unless funds are otherwise appropriated at higher amounts by the legislature, the office of public instruction may spend no more than $500,000 per biennium for the purposes of mediating with vendors, developing a plan, preparing a request for proposal solicitation package, managing the vendor contract, and implementing a plan with school districts for the statewide data system. This limitation does not apply if the office of public instruction develops and administers the statewide data system without a vendor."

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 4. Effective date. [This act] is effective July 1, 2015.

Section 5. Applicability. [This act] applies to school budgets for school years beginning on or after July 1, 2015.

Approved February 27, 2015

CHAPTER NO. 61

[HB 38]

AN ACT REVISING GAMBLING CONTROL LAWS; REVISING DEFINITIONS; REVISING THE AUTHORITY AND DUTIES OF GAMBLING INVESTIGATORS; REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF JUSTICE RELATED TO GAMBLING CONTROL; AUTHORIZING THE DEPARTMENT TO ESTABLISH A CALCUTTA POOL PERMIT APPLICATION; ESTABLISHING A PERMIT FEE; AMENDING LIVE CARD GAME PERMIT REQUIREMENTS; AMENDING THE DEFINITION OF "SPORTS TAB GAME"; AMENDING SECTIONS 23-5-112, 23-5-113, 23-5-115, 23-5-222, 23-5-306, AND 23-5-501, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Associated gambling business" means a person who provides a service or product to a licensed gambling business and who:

(a) has a reason to possess or maintain control over gambling devices;

(b) has access to proprietary information or gambling tax information; or

(c) is a party in processing gambling transactions.

(4) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(5) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75 numbers may not be used. One or more numbers may appear in each square, except for the center square, which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the game is won by the person or persons who first cover one or more previously designated arrangements of numbers on the bingo card.

(6) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(7) "Bingo session" means all activities incidental to a series of bingo games conducted by a licensed operator beginning when the first bingo ball is drawn in the first game of bingo.

(8) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(9) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the

opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(10) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(11) "Department" means the department of justice.

(12) "Distributor" means a person who:

(a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator equipment of any kind for use in gambling activities; and

(b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

(13) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(b) The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1.

(c) The term does not include social card games *of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist* played solely for prizes of minimal value, ~~defined as class I gaming by 25 U.S.C. 2703~~ *as defined by department rule*.

(14) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(15) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(16) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to be awarded by purchasing or agreeing to purchase goods or services.

(b) The term does not mean:

(i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

(ii) a promotional game of chance; or

(iii) an amusement game regulated under Title 23, chapter 6.

(17) "Gross proceeds" means gross revenue received less prizes paid out.

(18) "House player" means a person participating in a card game who has a financial relationship with the operator, card room contractor, or dealer or who has received money or chips from the operator, card room contractor, or dealer to participate in a card game.

(19) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:

(a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part 5 of this chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps table, or slot machine, except as provided in 23-5-153.

(20) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

(c) sports betting, by whatever name known, in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities authorized in Title 23, chapter 4, and parts 2, 5, and 8 of this chapter;

(d) credit gambling; and

(e) internet gambling.

(21) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any legal or illegal gambling enterprise through the use of communications technology that allows a person using money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes, or other similar information.

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, or the state lottery provided for in Title 23, chapter 7. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

(22) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(23) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(24) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

(25) "Licensee" means a person who has received a license from the department.

(26) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(27) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance.

(b) The term does not mean lotteries authorized under Title 23, chapter 7.

(28) "Manufacturer" means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator;

(b) possesses gambling devices or components of gambling devices for the purpose of testing them; or

(c) purchases gambling devices or components from licensed manufacturers, distributors, route operators, or operators as trade-ins or to refurbish, rebuild, or repair to sell to licensed manufacturers, distributors, route operators, or operators.

(29) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established to support charitable activities, scholarships or educational grants, or community service projects.

(30) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

(31) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

(32) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(33) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(34) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the department that was manufactured or intended for use for purposes other than gambling.

(35) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(36) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(37) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises and may sell gambling equipment to a distributor or manufacturer.

(38) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of public health and human services.

(39) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(40) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 2. Section 23-5-113, MCA, is amended to read:

"23-5-113. Department as criminal justice agency. The department is a criminal justice agency~~. Designated~~ *whose designated* agents ~~of the department~~ are granted peace officer status, with the power of search, seizure, and arrest~~.~~. *Agents are authorized* to investigate gambling activities in this state regulated by parts 1 through 8 of this chapter and the rules of the department*,* ~~and~~ to report violations to the county attorney of the county in which they occur*, to investigate and report on activities related to liquor and tobacco administration under Title 16, and to act as appointed by the attorney general*."

Section 3. Section 23-5-115, MCA, is amended to read:

"23-5-115. Powers and duties of department — licensing. (1) The department shall administer the provisions of parts 1 through 8 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 8 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications *and may provide for the issuance of temporary operating authority*.

(4) The department shall, as a prerequisite to the issuance of a license pursuant to the authority contained in this chapter, require the applicant to submit fingerprints for the purpose of a criminal background investigation by the department and the federal bureau of investigation.

(5) The applicant shall sign a release of information to the department and is responsible to the department for the payment of all fees associated with the criminal background check.

(6) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(7) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 8 of this chapter.

(8) The department may not make public or otherwise disclose confidential criminal justice information, as defined in 44-5-103, information obtained in the tax reporting processes, personal information protected by an individual privacy interest, or trade secrets, as defined in 30-14-402, specifically identified and for which there are reasonable grounds of privilege asserted by the party claiming the privilege.

(9) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 8 of this chapter."

Section 4. Section 23-5-222, MCA, is amended to read:

"23-5-222. Calcutta pools authorized. It is ~~hereby~~ lawful to conduct or participate in a Calcutta pool as defined in 23-5-221. *An organization shall apply to the department on a form prescribed and furnished by the department for a Calcutta permit. The application must be accompanied by a fee of $25, which the department shall retain for administrative purposes.*"

Section 5. Section 23-5-306, MCA, is amended to read:

"23-5-306. Live card game table — permit — fees — disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and who holds an appropriate license to sell alcoholic beverages for consumption on the premises, as provided in 23-5-119, may be granted an annual permit for the placement of live card game tables.

(b) A permit is not required for social games played for prizes of minimal value, ~~defined as class I gaming by 25 U.S.C. 2703~~ *as defined by department rule.*

(c) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) one or more live card game tables were legally operated on the premises on January 15, 1989;

(ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable product;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) $250 for the first table; and

(b) $500 for each additional table.

(3) The department shall retain for administrative purposes $100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

Section 6. Section 23-5-501, MCA, is amended to read:

"23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons or animals.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event *or series of sports events* as provided in 23-5-503."

Section 7. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2015.

(2) [Section 2] and this section are effective on passage and approval.

(3) [Section 6] is effective July 1, 2015.

Approved February 27, 2015

CHAPTER NO. 62

[HB 74]

AN ACT REVISING DATA SYSTEM SECURITY BREACH NOTIFICATION LAWS; REQUIRING THE ATTORNEY GENERAL AND INSURANCE COMMISSIONER TO BE NOTIFIED OF A DATA SYSTEM SECURITY BREACH; AND AMENDING SECTIONS 2-6-501, 2-6-504, 30-14-1704, AND 33-19-321, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-6-501, MCA, is amended to read:

"2-6-501. Definitions. For the purposes of this part, the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of the state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and the data elements are not encrypted:

(i) a social security number ~~or tax identification number~~;

(ii) a driver's license number, an identification number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

(iii) an account number *or* ~~or~~ credit or debit card number*,* ~~in combination with any required~~ *in combination with any required* security code, access code, or password that would permit access to a person's financial account*;*

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or

(vi) an identity protection personal identification number issued by the United States internal revenue service.

(b) The term does not include publicly available information that is lawfully made available to the general public from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency."

Section 2. Section 2-6-504, MCA, is amended to read:

"2-6-504. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system in order to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach of the security of a data system if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach of the security of a data system to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach of the security of a data system. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency that is required to issue a notification pursuant to this section shall simultaneously submit an electronic copy of the notification and a statement providing the date and method of distribution of the notification to the attorney general's consumer protection office, excluding any information that personally identifies any individual who is entitled to receive notification. If a notification is made to more than one individual, a single copy of the notification must be submitted that indicates the number of individuals in the state who received notification."

Section 3. Section 30-14-1704, MCA, is amended to read:

"30-14-1704. Computer security breach. (1) Any person or business that conducts business in Montana and that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the data system following discovery or notification of the breach to any resident of Montana whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The disclosure must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data system immediately following discovery if the personal information was or is reasonably believed to have been acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay in notification. The notification required by this section must be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, the following definitions apply:

(a) "Breach of the security of the data system" means unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by the person or business and causes or is reasonably believed to cause loss or injury to a Montana resident. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the data system, provided that the personal information is not used or subject to further unauthorized disclosure.

(b) (i) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) social security number;

(B) driver's license number, state identification card number, or tribal identification card number;

(C) account number ~~or~~ *or* credit or debit card number, ~~in combination with any required~~ *in combination with any required* security code, access code, or password that would permit access to an individual's financial account*;*

(D) medical record information as defined in 33-19-104;

(E) a taxpayer identification number; or

(F) an identity protection personal identification number issued by the United States internal revenue service.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(5) (a) For purposes of this section, notice may be provided by one of the following methods:

(i) written notice;

(ii) electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. 7001;

(iii) telephonic notice; or

(iv) substitute notice, if the person or business demonstrates that:

(A) the cost of providing notice would exceed $250,000;

(B) the affected class of subject persons to be notified exceeds 500,000; or

(C) the person or business does not have sufficient contact information.

(b) Substitute notice must consist of the following:

(i) an electronic mail notice when the person or business has an electronic mail address for the subject persons; and

(ii) conspicuous posting of the notice on the website page of the person or business if the person or business maintains one; or

(iii) notification to applicable local or statewide media.

(6) Notwithstanding subsection (5), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and that does not unreasonably delay notice is considered to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the data system.

(7) If a business discloses a security breach to any individual pursuant to this section and gives a notice to the individual that suggests, indicates, or implies to the individual that the individual may obtain a copy of the file on the individual from a consumer credit reporting agency, the business shall coordinate with the consumer reporting agency as to the timing, content, and distribution of the notice to the individual. The coordination may not unreasonably delay the notice to the affected individuals.

(8) Any person or business that is required to issue a notification pursuant to this section shall simultaneously submit an electronic copy of the notification and a statement providing the date and method of distribution of the notification to the attorney general's consumer protection office, excluding any information that personally identifies any individual who is entitled to receive notification. If a notification is made to more than one individual, a single copy of the notification must be submitted that indicates the number of individuals in the state who received notification."

Section 4. Section 33-19-321, MCA, is amended to read:

"33-19-321. Computer security breach. (1) Any licensee or insurance-support organization that conducts business in Montana and that owns or licenses computerized data that includes personal information shall provide notice of any breach of the security of the system following discovery or notice of the breach of the security of the system to any individual whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. The notice must be made without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3), or consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(2) Any person to whom personal information is disclosed in order for the person to perform an insurance function pursuant to this part that maintains computerized data that includes personal information shall notify the licensee or insurance-support organization of any breach of the security of the system in which the data is maintained immediately following discovery of the breach of the security of the system if the personal information was or is reasonably believed to have been acquired by an unauthorized person.

(3) The notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and requests a delay of notice. The notice required by this section must be made after the law enforcement agency determines that the notice will not compromise the investigation.

(4) Licensees, insurance-support organizations, and persons to whom personal information is disclosed pursuant to this part shall develop and maintain an information security policy for the safeguarding of personal

information and security breach notice procedures that provide expedient notice to individuals as provided in subsection (1).

(5) Any licensee or insurance-support organization that is required to issue a notification pursuant to this section shall simultaneously submit an electronic copy of the notification and a statement providing the date and method of distribution of the notification to the commissioner, excluding any information that personally identifies any individual who is entitled to receive notification. If a notification is made to more than one individual, a single copy of the notification must be submitted that indicates the number of individuals in the state who received notification.

~~(5)~~*(6)* For purposes of this section, the following definitions apply:

(a) "Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a licensee, insurance-support organization, or person to whom information is disclosed pursuant to this part. Acquisition of personal information by a licensee, insurance-support organization, or employee or agent of a person as authorized pursuant to this part is not a breach of the security of the system.

(b) (i) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name and the data elements are not encrypted:

(A) social security number;

(B) driver's license number, state identification card number, or tribal identification card number;

(C) account number *or* ~~or~~ credit or debit card number, ~~in combination with any required~~ *in combination with any required* security code, access code, or password that would permit access to an individual's financial account*;*

(D) medical record information;

(E) a taxpayer identification number; or

(F) an identity protection personal identification number issued by the United States internal revenue service.

(ii) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

Approved February 27, 2015

CHAPTER NO. 63

[HB 103]

AN ACT GENERALLY REVISING LAWS RELATED TO REGULATION BY THE STATE AUDITOR; MODIFYING DOCUMENTARY REQUIREMENTS FOR SECURITY REGISTRATION BY QUALIFICATION; CLARIFYING EMPLOYER ABILITY TO FUND EMPLOYEE INDIVIDUAL HEALTH INSURANCE POLICIES; CLARIFYING PROCESS FOR SHARING EXAMINATION REPORTS WITH GOVERNMENTAL ENTITIES; ALIGNING CONTESTED CASE TIMING WITH THE MONTANA ADMINISTRATIVE PROCEDURE ACT; MODIFYING RISK-BASED CAPITAL REQUIREMENTS; ESTABLISHING A FARM MUTUAL INSURER VOLUNTARY DISSOLUTION PROCESS; CLARIFYING DUTY OF GUARANTY ASSOCIATION FOR EXCESS WORKERS' COMPENSATION;

CLARIFYING LIFE INSURANCE TIMELY SETTLEMENT DISCOUNT RATE; ADOPTING CERTIFICATION TERMINOLOGY FOR HEALTH SERVICE CORPORATIONS; PERMITTING MULTIPLE EMPLOYER WELFARE ARRANGEMENTS TO UTILIZE GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR REPORTING PURPOSES; ELIMINATING THE REQUIREMENT FOR RETURN OF PAPER LICENSES BY CERTAIN LICENSEES; REVISING MONTANA COMPREHENSIVE HEALTH ASSOCIATION LAWS; AMENDING SECTIONS 15-30-2110, 17-6-606, 27-1-732, 30-10-205, 33-1-409, 33-1-701, 33-2-117, 33-2-708, 33-2-1902, 33-2-1904, 33-4-101, 33-7-117, 33-10-105, 33-17-1502, 33-20-114, 33-20-1603, 33-22-132, 33-22-138, 33-22-140, 33-22-142, 33-22-143, 33-22-706, 33-22-1501, 33-22-1502, 33-22-1504, 33-22-1513, 33-22-1804, 33-30-107, 33-30-108, 33-30-201, 33-30-204, 33-35-301, 53-2-215, AND 53-4-1007, MCA; REPEALING SECTIONS 33-2-1912, 33-17-1003, 33-18-214, 33-22-166, 33-22-245, 33-22-1501, 33-22-1502, 33-22-1503, 33-22-1504, 33-22-1505, 33-22-1511, 33-22-1512, 33-22-1513, 33-22-1514, 33-22-1515, 33-22-1516, 33-22-1517, 33-22-1518, 33-22-1521, 33-22-1523, 33-22-1524, AND 33-31-322, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection (13), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law~~, including premiums paid by the employer for an employee pursuant to 33-22-166~~;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue

Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana

resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed $5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 2. Section 17-6-606, MCA, is amended to read:

"17-6-606. Tobacco settlement accounts — purpose — uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco; *and*

(c) provide funds for the children's health insurance program~~; and~~

~~(d) provide funds for the comprehensive health association programs~~.

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services

shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs—August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

~~(a)~~ matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10~~; and~~

~~(b) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513~~.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services."

Section 3. Section 27-1-732, MCA, is amended to read:

"27-1-732. Immunity of nonprofit corporation officers, directors, and volunteers. (1) An officer, director, or volunteer of a nonprofit corporation is not individually liable for any action or omission made in the course and scope of the officer's, director's, or volunteer's official capacity on behalf of the nonprofit corporation. This section does not apply to liability for willful or wanton misconduct. The immunity granted by this section does not apply to the liability of a nonprofit corporation.

(2) For purposes of this section, "nonprofit corporation" means:

(a) an organization exempt from taxation under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended; *or*

(b) a corporation or organization that is eligible for or has been granted tax-exempt status by the department of revenue under the provisions of 15-31-102~~; or~~

~~(c) the comprehensive health association created by 33-22-1503~~."

Section 4. Section 30-10-205, MCA, is amended to read:

"30-10-205. Registration by qualification. (1) Any security may be registered by qualification. A registration statement under this section must contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in 30-10-209:

(a) with respect to the issuer and any significant subsidiary: its name, address, form of organization, the state or foreign jurisdiction and date of its organization, the general character and location of its business, and a description of its physical properties and equipment;

(b) with respect to every director and officer of the issuer or person occupying a similar status or performing similar functions: the person's name, address, and principal occupation for the past 5 years, the amount of securities of the issuer held by the person as of a specified date within 90 days of the filing of the registration statement, the remuneration paid to all listed persons in the aggregate during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer, together with all predecessors, parents, and subsidiaries;

(c) with respect to any person not named in subsection (1)(b) owning of record, or beneficially if known, 10% or more of the outstanding shares of any class of equity security of the issuer: the information specified in subsection (1)(b) other than the person's occupation;

(d) with respect to every promoter not named in subsection (1)(b), if the issuer was organized within the past 3 years: the information specified in subsection (1)(b), any amount paid to the promoter by the issuer within that period or intended to be paid to the promoter, and the consideration for any payment;

(e) the capitalization and long-term debt, on both a current and a pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill, or anything else, for which the issuer or any subsidiary has issued any of its securities within the past 2 years or is obligated to issue any of its securities;

(f) the kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation from the offering price at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts, commissions, and other promotional fees, including separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering; the estimated amounts of other selling expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a promotional fee; a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made, or the proposed form of any agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities that are to be offered otherwise than through an underwriter;

(g) the estimated cash proceeds to be received by the issuer from the offering, the purposes for which the proceeds are to be used by the issuer, the amount to be used for each purpose, the amounts of any funds to be raised from other sources to achieve the purposes stated and the sources of the additional funds, and, if any part of the proceeds is to be used to acquire any property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price;

(h) a description of any stock options or other security options outstanding or to be created in connection with the offering, together with the amount of any options held or to be held by every person required to be named in subsection (1)(b), (1)(c), (1)(d), (1)(e), or (1)(g) and by any person who holds or will hold 10% or more in the aggregate of any options;

(i) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(j) any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission~~,~~*;*

(k) a description of any pending litigation or proceeding to which the issuer is a party and that materially affects its business or assets, including any litigation or proceeding known to be contemplated by governmental authorities;

~~(k)~~*(l)* a copy of any prospectus or circular intended as of the effective date to be used in connection with the offering;

~~(l)~~*(m) if the issuer issues a document showing ownership of the security being registered,* a specimen or copy of the ~~security being registered,~~ *document;*

(n) a copy of the issuer's articles of incorporation and bylaws as currently in effect~~, and~~*;*

(o) a copy of any indenture or other instrument covering the security to be registered;

~~(m)~~*(p)* a signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered;

~~(n)~~*(q)* a balance sheet of the issuer as of a date within 4 months prior to the filing of the registration statement, a profit and loss statement and analysis of surplus for each of the 3 fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet or for the period of the issuer's and any predecessor's existence if less than 3 years, and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements that would be required if that business were the registrant;

~~(o)~~*(r)* a consent to service of process meeting the requirements of 30-10-208; and

~~(p)~~*(s)* other information that the commissioner may require.

(2) In the case of a nonissuer distribution, information may not be required under this section unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made or can be furnished by them without unreasonable effort or expense.

(3) A registration statement by qualification under this section becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this section that a prospectus containing any designated part of the information specified in this section be sent or given to each person to whom an offer is made before or concurrently with:

(a) the first written offer made to the person, by means other than a public advertisement, by or for the account of the issuer or any other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by the underwriter or broker-dealer as a participant in the distribution;

(b) the confirmation of any sale made by or for the account of any such person;

(c) payment pursuant to any such sale; or

(d) delivery of the security pursuant to any such sale, whichever first occurs, but the commissioner shall accept for use under the requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations implementing that act."

Section 5. Section 33-1-409, MCA, is amended to read:

"33-1-409. Examination reports — hearings — confidentiality — publication. (1) All examination reports must be composed only of facts

appearing upon the books, records, or other documents of the company, its agents, or other persons examined or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs. The report must contain the conclusions and recommendations that the examiners find reasonably warranted from the facts.

(2) Not later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice that gives the company examined a reasonable opportunity, but not more than 30 days, to make a written submission or rebuttal with respect to any matters contained in the examination report.

(3) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order:

(a) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation.

(b) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, information, or testimony and of refiling pursuant to subsection (2); or

(c) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional data, documentation, information, and testimony.

(4) (a) All orders entered pursuant to subsection (3)(a) must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. An order must be considered a final administrative decision and may be appealed pursuant to Title 33, chapter 1, part 7, and must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(b) (i) A hearing conducted under subsection (3)(c) by the commissioner or an authorized representative must be conducted as a nonadversarial, confidential, investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order pursuant to subsection (3)(a).

(ii) The commissioner may not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously with discovery by the company limited to the examiner's workpapers that tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered

relevant to the investigation, whether under the control of the department, the company, or other persons. The documents produced must be included in the record, and testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record. This section does not require the department to disclose any information or records that would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(iii) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. The company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department must be permitted to make closing statements and may be represented by counsel of their choice.

(5) (a) Upon the adoption of the examination report under subsection (3)(a), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days, except to the extent provided in subsection (2). After 30 days, the commissioner shall open the report for public inspection as long as a court of competent jurisdiction has not stayed its publication.

(b) This title does not prevent and may not be construed as prohibiting the commissioner from disclosing the content of an examination report or preliminary examination report, the results of an examination, or any matter relating to a report or results to the insurance department of this state or of any other state or country, to law enforcement officials of this state or of any other state, or to an agency of the federal government at any time as long as the agency or office receiving the report or matters relating to the report agrees ~~in writing~~ to hold it in a manner consistent with this part.

(c) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate any proceedings or actions as provided by law.

(6) (a) Working papers must be given confidential treatment, are not subject to subpoena, are not discoverable or admissible as evidence in any private action, and may not be made public by the commissioner or any other person except to the extent provided in 33-1-311(5) and subsection (5) of this section. Persons given access to working papers shall agree ~~in writing~~, prior to receiving the information, to treat the information in the manner required by this section unless prior written consent has been obtained from the company to which the working papers pertain.

(b) For purposes of subsection (6)(a), "working papers" means:

(i) all papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in the course of an examination or analysis by the commissioner;

(ii) confidential criminal justice information, as defined in 44-5-103;

(iii) personal information protected by an individual privacy interest; and

(iv) specifically identified trade secrets, as defined in 30-14-402, that have been obtained by or disclosed to the commissioner or any other person in the course of an examination made under this part for which there are reasonable grounds of privilege that are asserted by the party claiming the privilege."

Section 6. Section 33-1-701, MCA, is amended to read:

"33-1-701. Hearings — discretion — written demand — procedure. (1) The commissioner may hold hearings for any purpose within the scope of this code considered necessary. Hearing procedures contained in Title 33, chapter 1, apply only to Title 33, except as otherwise provided.

(2) A person may provide the commissioner with a written demand for a hearing. A written demand must specify the grounds relied upon as a basis for the relief sought at the hearing. If the commissioner does not issue an order granting a person's request for a hearing within 30 days of receiving a request, the hearing is considered refused.

(3) All hearings must be conducted pursuant to the Montana Administrative Procedure Act, as provided in Title 2, chapter 4, part 6. Any supplemental hearing procedures may be adopted by administrative rule. ~~The commissioner shall hold a hearing within 45 days of receipt of a request for a hearing unless postponed by mutual consent of the person requesting the hearing and the commissioner.~~"

Section 7. Section 33-2-117, MCA, is amended to read:

"33-2-117. Renewal, expiration, reinstatement, and amendment of certificate of authority. (1) A certificate of authority issued or renewed under this code must continue in force as long as the insurer is entitled under this code and until suspended, revoked, or otherwise terminated. A certificate is subject to renewal by the insurer each year by payment on or prior to March 1 of the fee provided for in 33-2-708.

(2) If not continued by the insurer, the certificate of authority expires at midnight on May 31 following failure of the insurer to continue it in force. The commissioner shall promptly notify the insurer of its failure to pay the fee that can result in the expiration of its certificate of authority.

(3) The commissioner may reinstate a certificate of authority that the insurer has inadvertently permitted to expire after the insurer cures any failures resulting in expiration and upon payment of a fee of $100 for reinstatement ~~in addition to the fee provided for in 33-2-708~~. Otherwise, the insurer may be granted another certificate of authority only after filing an application and meeting all other requirements for an original certificate of authority in this state.

(4) The commissioner may amend a certificate of authority at any time to accord with changes in the insurer's charter of insuring powers."

Section 8. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) ~~Except as provided in 33-17-212(2), the~~ *The* commissioner shall collect a fee of $1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) biennial renewal of license, $50;

(C) lapsed license reinstatement fee, $100;

(ii) resident insurance producer's license lapsed license reinstatement fee, $100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) quarterly filing fee, $25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), $50;

(ix) navigator certification:

(A) application for original certification, including issuance of certificate if issued, $100;

(B) biennial renewal of certification, $50;

(C) lapsed certification reinstatement fee, $100;

(x) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of $75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than $1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.

(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of $10 will be refunded."

Section 9. Section 33-2-1902, MCA, is amended to read:

"33-2-1902. Definitions. As used in this part, the following definitions apply:

(1) "Adjusted RBC report" means an RBC report that has been adjusted by the commissioner in accordance with 33-2-1903(5).

(2) "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

(3) "Domestic insurer" means any insurance company domiciled in this state.

(4) "Foreign insurer" means any insurance company licensed to do business in this state under 33-2-116 but not domiciled in this state.

(5) "Life or disability insurer" means:

(a) any insurance company licensed under 33-2-116 and engaged in the business of entering into contracts of disability insurance, as described in 33-1-207, or life insurance, as described in 33-1-208;

(b) a licensed property and casualty insurer writing only disability insurance; ~~or~~

(c) any insurer engaged solely in the business of reinsurance of life or disability contracts~~.~~*;*

(d) a fraternal benefit society formed under Title 33, chapter 7; or

(e) a health service corporation formed under Title 33, chapter 30.

(6) "NAIC" means the national association of insurance commissioners.

(7) "Negative trend" means, with respect to a life or health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the RBC instructions.

(8) (a) "Property and casualty insurer" means:

(i) any insurance company licensed under 33-2-116 and engaged in the business of entering into contracts of property insurance, as described in 33-1-210, or casualty insurance, as described in 33-1-206;

(ii) any insurance company engaged solely in the business of reinsurance of property and casualty contracts; or

(iii) any insurance company engaged in the business of surety and marine insurance.

(b) The term does not include monoline mortgage guaranty insurers, financial guaranty insurers, and title insurers.

(9) "RBC instructions" means the RBC report, including risk-based capital instructions adopted by the NAIC, as the RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(10) "RBC level" means an insurer's authorized control level RBC, company action level RBC, mandatory control level RBC, or regulatory action level RBC, where:

(a) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) "company action level RBC" means, with respect to any insurer, the product of 2 and its authorized control level RBC;

(c) "mandatory control level RBC" means the product of 0.70 and the authorized control level RBC; and

(d) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

(11) "RBC plan" means a comprehensive financial plan containing the elements specified in 33-2-1904(2). If the commissioner rejects the RBC plan and it is revised by the insurer, with or without the commissioner's recommendation, the plan must be called a revised RBC plan.

(12) "RBC report" means the report required in 33-2-1903.

(13) "Total adjusted capital" means the sum of:

(a) an insurer's statutory capital and surplus; and

(b) other items, if any, as the RBC instructions may provide."

Section 10. Section 33-2-1904, MCA, is amended to read:

"33-2-1904. Company action level event. (1) "Company action level event" means any of the following events:

(a) the filing of an RBC report by an insurer indicating that:

(i) the insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(ii) for a life or disability insurer, the insurer has total adjusted capital that:

(A) is greater than or equal to its company action level RBC but less than its authorized control level RBC multiplied by ~~2.5~~ *3*; and

(B) has a negative trend; or

(iii) for a property and casualty insurer, the insurer has total adjusted capital that:

(A) is greater than or equal to its company action level RBC but less than its authorized control level RBC multiplied by 3; and

(B) triggers the trend test determined in accordance with the trend test calculation included in the RBC instructions;

(b) the notification by the commissioner to the insurer of an adjusted RBC report that indicates an event in subsection (1)(a) if the insurer does not challenge the adjusted RBC report under 33-2-1908 or if the commissioner has rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the commissioner an RBC plan that must:

(a) identify the conditions that contribute to the company action level event;

(b) contain proposals of corrective actions that the insurer intends to take and that would be expected to result in the elimination of the company action level event;

(c) provide projections of the insurer's financial results in the current year and at least the next 4 years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component.

(d) identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) identify the quality of and problems associated with the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

(3) The RBC plan must be submitted:

(a) within 45 days of the company action level event; or

(b) if the insurer challenges an adjusted RBC report pursuant to 33-2-1908, within 45 days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) Within 60 days after an insurer submits an RBC plan to the commissioner, the commissioner shall notify the insurer as to whether the RBC plan may be implemented or is unsatisfactory in the judgment of the commissioner. If the commissioner determines that the RBC plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may propose revisions intended to render the RBC plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) within 45 days after the notification from the commissioner; or

(b) if the insurer challenges the notification from the commissioner under 33-2-1908, within 45 days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) If the commissioner notifies an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, at the commissioner's discretion, subject to the insurer's right to a hearing under 33-2-1908, specify in the notification that the notification constitutes a regulatory action level event.

(6) Each domestic insurer that files an RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(a) the state has an RBC provision substantially similar to 33-2-1909(1); and

(b) the insurance commissioner of that state has notified the insurer in writing of its request for the filing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state by the later of:

(i) 15 days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with that state; or

(ii) the date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4)."

Section 11. Section 33-4-101, MCA, is amended to read:

"33-4-101. Scope of chapter — provisions applicable. (1) The chapter applies to:

(a) all domestic mutual hail, fire, and other casualty insurers of farm property and stock and rural buildings formed and immediately prior to January 1, 1961, lawfully transacting insurance under sections 40-1501 through 40-1517 of the Revised Codes of Montana, 1947;

(b) all domestic mutual rural insurers formed and immediately prior to January 1, 1961, lawfully transacting insurance under sections 40-1601 through 40-1625 of the Revised Codes of Montana, 1947;

(c) all insurers formed under this chapter.

(2) The insurance laws of this state do not apply to or govern, either directly or indirectly, domestic farm mutual insurers except as provided in this chapter.

(3) The following chapters and sections of this title apply to farm mutual insurers to the extent applicable and not inconsistent with the express provisions of this chapter and the reasonable implications of the express provisions of this chapter: chapter 1, parts 1 through 4, 7, 12, and 13; 33-2-112; 33-2-501; 33-2-502; 33-2-708; 33-2-1212; chapter 2, parts 13 and 16; 33-2-1501; 33-2-1517(2); 33-3-218; 33-3-308; 33-3-309; 33-3-401; 33-3-402; 33-3-431; 33-3-436; *chapter 3, part 6;* and chapters 18 and 19."

Section 12. Section 33-7-117, MCA, is amended to read:

"33-7-117. Scope — provisions applicable. (1) Except as provided in subsection (2), societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose. The provisions of a law enacted after January 1, 1992, do not apply to fraternal benefit societies unless expressly made applicable by the provisions of the law.

(2) In addition to the provisions of this chapter, the provisions of chapter 1, parts 1 through 4 and 7; 33-2-104; 33-2-107; 33-2-112; chapter 2, ~~part~~ *parts* 13 *and 19*; 33-3-308; 33-3-701 through 33-3-704; 33-15-502; and chapters 17, 18, 20, and 22 apply to fraternal benefit societies to the extent applicable and to the extent not in conflict with the provisions of this chapter and the reasonable implications of this chapter."

Section 13. Section 33-10-105, MCA, is amended to read:

"33-10-105. General powers and duties. (1) Subject to subsection (2), the association:

(a) (i) is obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency or before the policy expiration date if less than 30 days after the determination or before the insured replaces the policy or causes its cancellation if the insured does so within 30 days of the determination;

(ii) is obligated under subsection (1)(a)(i) only for that amount of each covered claim that does not exceed $300,000, except that:

(A) the association shall pay an amount not exceeding $10,000 for each policy for a covered claim for the return of unearned premium; and

(B) the association shall pay the full amount of any covered claim arising out of a workers' compensation *or excess workers' compensation* policy; and

(iii) is not obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

(b) is considered the insurer to the extent of its obligation on the covered claims and to that extent has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) shall investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which the settlements, releases, and judgments may be properly contested;

(d) shall notify persons as the commissioner directs under 33-10-109(2)(a), including the department of labor and industry for workers' compensation claims;

(e) shall handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but the designation may be declined by a member insurer.

(f) shall reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this part.

(2) (a) Except as provided in subsection (2)(b), a covered claim may not include a claim filed with the association or a liquidator for protection under the insured's policy for losses incurred but not reported and may not include a claim filed with the association after the earlier of:

(i) 36 months after the date of the order of liquidation; or

(ii) the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

(b) (i) If the claimant learns that the claimant's condition resulted from an occupational disease compensable under Title 39, chapter 71, within 36 months of the order of liquidation or the final date set by the court for the filing of claims against the liquidator, the claimant shall file a claim, which must be paid under the terms of subsection (1)(a). If the claimant does not learn of a compensable condition under Title 39, chapter 71, until after the time specified in either subsection (2)(a)(i) or (2)(a)(ii) has expired, the claimant shall file a claim with the association within 1 year from the date the claimant knew or should have known that the claimant's condition resulted from an occupational disease.

(ii) Notice by a claimant or insurer to the department of labor and industry of a workers' compensation claim or an occupational disease claim pursuant to Title 39, chapter 71, constitutes notice to the liquidator for the purposes of workers' compensation or occupational disease claims.

(3) The association may:

(a) employ or retain persons necessary to handle claims and perform other duties of the association;

(b) borrow funds necessary to effect the purposes of this part in accord with the plan of operation;

(c) sue or be sued;

(d) negotiate and become a party to contracts necessary to carry out the purpose of this part;

(e) perform other acts necessary or proper to effectuate the purpose of this part;

(f) refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year."

Section 14. Section 33-17-1502, MCA, is amended to read:

"33-17-1502. Rental vehicle entity license — customer service representative requirements — recordkeeping. (1) A rental vehicle entity may obtain ~~an insurance license as~~ a business entity *insurance producer license*.

(2) A rental vehicle entity shall designate an individual licensed insurance producer who is responsible for the rental vehicle entity's compliance with the insurance laws of this state.

(3) A rental vehicle entity or customer service representative may not present rental vehicle insurance information to renters unless the rental vehicle entity is licensed and the customer service representative has been trained as required under 33-17-1503.

(4) A customer service representative may present rental vehicle insurance information only on behalf of a rental vehicle entity.

(5) A rental vehicle entity shall supervise a customer service representative who provides rental vehicle insurance under the provisions of this part.

(6) A rental vehicle entity shall submit to the commissioner an annual report listing each customer service representative presenting rental vehicle insurance information to the public."

Section 15. Section 33-20-114, MCA, is amended to read:

"33-20-114. Payment of claims — interest. (1) There must be a provision, which may be made by endorsement, that when a claim is made upon the death of the insured, settlement must be made upon receipt of proof of death and, at the insurer's option, surrender of the policy or proof of the interest of the claimant, or both.

(2) There must be a provision, which may be made by endorsement, that settlement must be made within 60 days of receipt of proof of death and that if settlement is made after the first 30 days, the settlement must include interest from the 30th day until settlement. Interest must be paid at the *monthly average* discount rate on 90-day *AA asset-backed* commercial paper in effect at the federal reserve bank in the ninth federal reserve district at the time of proof of death or at the rate stated in the policy, whichever is greater. The settlement period and interest provisions of this subsection apply to all claims upon deaths filed with an insurer, regardless of whether those provisions are included in the policy."

Section 16. Section 33-20-1603, MCA, is amended to read:

"33-20-1603. Application of part. (1) This part applies to life insurance policies, annuity contracts, certificates under a life insurance policy or annuity contract, or certificates issued to a fraternal benefit society under which benefits are payable upon the death of the insured.

(2) This part may not be construed to limit any agreement by the commissioner with ~~a company~~ *an insurer* regarding unclaimed life insurance benefits.

(3) For the purposes of this part, the term "annuity contract" does not include an annuity used to fund an employment-based retirement plan or program when the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants."

Section 17. Section 33-22-132, MCA, is amended to read:

"33-22-132. Coverage for mammography examinations. (1) Each group or individual medical expense~~, cancer,~~ and blanket disability policy, certificate of insurance, and membership contract that is delivered, issued for delivery, renewed, extended, or modified in this state must provide minimum mammography examination coverage.

(2) For the purpose of this section, "minimum mammography examination" means:

(a) one baseline mammogram for a woman who is 35 years of age or older and under 40 years of age;

(b) a mammogram every 2 years for any woman who is 40 years of age or older and under 50 years of age or more frequently if recommended by the woman's physician; and

(c) a mammogram each year for a woman who is 50 years of age or older.

(3) A minimum $70 payment or the actual charge if the charge is less than $70 must be made for each mammography examination performed before the application of the terms of the applicable group or individual disability policy, certificate of insurance, or membership contract that establish durational limits, deductibles, and copayment provisions as long as the terms are not less favorable than for physical illness generally.

(4) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, or specified disease policies."

Section 18. Section 33-22-138, MCA, is amended to read:

"33-22-138. Coverage for telemedicine services. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telemedicine if the services are otherwise covered by the policy, certificate, contract, or agreement.

(2) Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.

(3) Nothing in this section may be construed to require:

(a) a health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured's policy; or

(b) a health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is providing health care services by means of telemedicine determines that the presence of a health care provider is necessary.

(4) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of telemedicine.

(5) This section does not apply to disability income, hospital indemnity, medicare supplement, *specified disease,* or long-term care policies.

(6) For the purposes of this section, the following definitions apply:

(a) "Health care facility" means a critical access hospital, hospice, hospital, long-term care facility, mental health center, outpatient center for primary care, or outpatient center for surgical services licensed pursuant to Title 50, chapter 5.

(b) "Health care provider" means an individual:

(i) licensed pursuant to Title 37, chapter 3, 6, 7, 10, 11, 15, 17, 20, 22, 23, 24, 25, or 35;

(ii) licensed pursuant to Title 37, chapter 8, to practice as a registered professional nurse or as an advanced practice registered nurse;

(iii) certified by the American board of genetic counseling as a genetic counselor; or

(iv) certified by the national certification board for diabetes educators as a diabetes educator.

(c) "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a later date by a health care provider or health care facility at a distant site without the patient present in real time. The term includes interactive audio, video, and data communication.

(d) (i) "Telemedicine" means the use of interactive audio, video, or other telecommunications technology that is:

(A) used by a health care provider or health care facility to deliver health care services at a site other than the site where the patient is located; and

(B) delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.

(ii) The term includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

(iii) The term does not include the use of audio-only telephone, e-mail, or facsimile transmissions."

Section 19. Section 33-22-140, MCA, is amended to read:

"33-22-140. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Beneficiary" has the meaning given the term by 29 U.S.C. 1002(33).

(2) "Church plan" has the meaning given the term by 29 U.S.C. 1002(33).

(3) "COBRA continuation provision" means:

(a) section 4980B of the Internal Revenue Code, 26 U.S.C. 4980B, other than subsection (f)(1) of that section as that subsection relates to pediatric vaccines;

(b) Title I, subtitle B, part 6, excluding section 609, of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.; or

(c) Title XXII of the Public Health Service Act, 42 U.S.C. 300dd, et seq.

(4) (a) "Creditable coverage" means coverage of the individual under any of the following:

(i) a group health plan;

(ii) health insurance coverage;

(iii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4;

(iv) Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, other than coverage consisting solely of a benefit under section 1928, 42 U.S.C. 1396s;

(v) Title 10, chapter 55, United States Code;

(vi) a medical care program of the Indian health service or of a tribal organization;

~~(vii) the Montana comprehensive health association provided for in 33-22-1503;~~

~~(viii)~~*(vii)* a health plan offered under Title 5, chapter 89, of the United States Code;

~~(ix)~~*(viii)* a public health plan;

~~(x)~~*(ix)* a health benefit plan under section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e); *or*

~~(xi)~~*(x)* a high-risk pool in any state.

(b) Creditable coverage does not include coverage consisting solely of coverage of excepted benefits.

(5) "Dependent" means:

(a) a spouse;

(b) an unmarried child under 25 years of age:

(i) who is not an employee eligible for coverage under a group health plan offered by the child's employer for which the child's premium contribution amount is no greater than the premium amount for coverage as a dependent under a parent's individual or group health plan;

(ii) who is not a named subscriber, insured, enrollee, or covered individual under any other individual health insurance coverage, group health plan, government plan, church plan, or group health insurance;

(iii) who is not entitled to benefits under 42 U.S.C. 1395, et seq.; and

(iv) for whom the insured parent has requested coverage;

(c) a child of any age who is disabled and dependent upon the parent as provided in 33-22-506 and 33-30-1003; or

(d) any other individual defined as a dependent in the health benefit plan covering the employee.

(6) "Elimination rider" means a provision attached to a policy that excludes coverage for a specific condition that would otherwise be covered under the policy.

(7) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment.

(8) "Excepted benefits" means:

(a) coverage only for accident or disability income insurance, or both;

(b) coverage issued as a supplement to liability insurance;

(c) liability insurance, including general liability insurance and automobile liability insurance;

(d) workers' compensation or similar insurance;

(e) automobile medical payment insurance;

(f) credit-only insurance;

(g) coverage for onsite medical clinics;

(h) other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits, as approved by the commissioner;

(i) if offered separately, any of the following:

(i) limited-scope dental or vision benefits;

(ii) benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these types of care; or

(iii) other similar, limited benefits as approved by the commissioner;

(j) if offered as independent, noncoordinated benefits, any of the following:

(i) coverage only for a specified disease or illness; or

(ii) hospital indemnity or other fixed indemnity insurance;

(k) if offered as a separate insurance policy:

(i) medicare supplement coverage;

(ii) coverage supplemental to the coverage provided under Title 10, chapter 55, of the United States Code; and

(iii) similar supplemental coverage provided under a group health plan.

(9) "Federally defined eligible individual" means an individual:

(a) for whom, as of the date on which the individual seeks coverage in the group market or individual market ~~or under an association portability plan, as defined in 33-22-1501~~, the aggregate of the periods of creditable coverage is 18 months or more;

(b) whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan, or health insurance coverage offered in connection with any of those plans;

(c) who is not eligible for coverage under:

(i) a group health plan;

(ii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4; or

(iii) a state plan under Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, or a successor program;

(d) who does not have other health insurance coverage;

(e) for whom the most recent coverage within the period of aggregate creditable coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(f) who, if offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, elected that coverage; and

(g) who has exhausted continuation coverage under the COBRA continuation provision or program described in subsection (9)(f) if the individual elected the continuation coverage described in subsection (9)(f).

(10) "Group health insurance coverage" means health insurance coverage offered in connection with a group health plan or health insurance coverage offered to an eligible group as described in 33-22-501.

(11) "Group health plan" means an employee welfare benefit plan, as defined in 29 U.S.C. 1002(1), to the extent that the plan provides medical care and items and services paid for as medical care to employees or their dependents, directly or through insurance, reimbursement, or otherwise.

(12) "Health insurance coverage" means benefits consisting of medical care, including items and services paid for as medical care, that are provided directly, through insurance, reimbursement, or otherwise, under a policy, certificate, membership contract, or health care services agreement offered by a health insurance issuer.

(13) "Health insurance issuer" means an insurer, a health service corporation, or a health maintenance organization.

(14) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

(15) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with group health insurance coverage.

(16) "Large employer" means, in connection with a group health plan, with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

(17) "Large group market" means the health insurance market under which individuals obtain health insurance coverage directly or through any arrangement on behalf of themselves and their dependents through a group health plan or group health insurance coverage issued to a large employer.

(18) "Late enrollee" means an eligible employee or dependent, other than a special enrollee under 33-22-523, who requests enrollment in a group health plan following the initial enrollment period during which the individual was entitled to enroll under the terms of the group health plan if the initial enrollment period was a period of at least 30 days. However, an eligible employee or dependent is not considered a late enrollee if a court has ordered that coverage be provided for a spouse, minor, or dependent under a covered employee's health benefit plan and a request for enrollment is made within 30 days after issuance of the court order.

(19) "Medical care" means:

(a) the diagnosis, cure, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure or function of the body;

(b) transportation primarily for and essential to medical care referred to in subsection (19)(a); or

(c) insurance covering medical care referred to in subsections (19)(a) and (19)(b).

(20) "Network plan" means health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the issuer.

(21) "Plan sponsor" has the meaning provided under section 3(16)(B) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(16)(B).

(22) "Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on presence of a condition before the enrollment date coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before the enrollment date.

(23) "Small group market" means the health insurance market under which individuals obtain health insurance coverage directly or through an arrangement, on behalf of themselves and their dependents, through a group health plan or group health insurance coverage maintained by a small employer as defined in 33-22-1803.

(24) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the group health plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the group health plan."

Section 20. Section 33-22-142, MCA, is amended to read:

"33-22-142. Certification of creditable coverage. (1) A group health plan and a health insurance issuer offering group health insurance coverage shall issue the certification described in subsection (3):

(a) within 10 days after an individual ceases to be covered under the group health plan or otherwise becomes covered under a COBRA continuation provision;

(b) not later than 10 days after the expiration of the notice period for cancellation for nonpayment of premium pursuant to the provisions of 33-22-121 and 33-22-530 or after termination of coverage for any other reason;

(c) in the case of an individual becoming covered under a COBRA continuation provision, at the time that the individual ceases to be covered under a COBRA continuation provision; and

(d) at the request on behalf of an individual made not later than 24 months after the date of termination of the coverage described in subsection (1)(a) or (1)(c), whichever is later.

(2) The certification pursuant to subsection (1)(a) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

(3) Certification is the written:

(a) certification of the period of creditable coverage of the individual under a group health plan and the coverage under the COBRA continuation provision;

(b) certification of the waiting period, if any, and affiliation period, as defined in 33-31-102, if applicable, imposed with respect to the individual for any coverage under a group health plan;

(c) certification of the date of issuance of the certificate specified on the form; and

(d) notification to the individual of:

~~(i) the individual's option to apply to the Montana comprehensive health association, provided for in 33-22-1503, for an association portability plan, as defined in 33-22-1501, within 63 days of issuance of a certificate of creditable coverage;~~

~~(ii)~~*(i)* the individual's conversion rights;

~~(iii)~~*(ii)* the availability of COBRA continuation coverage; *and*

~~(iv) the telephone number and address of the Montana comprehensive health association; and~~

~~(v)~~*(iii)* other notification as determined necessary and in the form prescribed by rule by the commissioner.

(4) To the extent that medical care under a group health plan consists of group health insurance coverage, a group health plan satisfies the certification requirement of this section if the health insurance issuer offering the coverage provides the certification in accordance with this section.

(5) In the case of an election described in 33-22-141 by a group health plan or health insurance issuer, if the group health plan or health insurance issuer enrolls an individual for coverage under the group health plan and the individual provides a certification of coverage of the individual, the entity that issued the certification shall upon request of the group health plan or health insurance issuer promptly disclose information on coverage of classes and categories of health benefits available under the certified coverage. The entity may charge the requesting group health plan or health insurance issuer the reasonable cost of disclosing the information.

(6) This section applies to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the group market."

Section 21. Section 33-22-143, MCA, is amended to read:

"33-22-143. Rules. The commissioner may adopt rules to implement 33-22-140 through 33-22-142, 33-22-246, 33-22-247, 33-22-514, *and* 33-22-523 through 33-22-526~~, and 33-22-1523~~."

Section 22. Section 33-22-706, MCA, is amended to read:

"33-22-706. Coverage for severe mental illness — definition. (1) A policy or certificate of health insurance or disability insurance that is delivered, issued for delivery, renewed, extended, or modified in this state must provide a level of benefits for the necessary care and treatment of severe mental illness, as defined in subsection (6), that is no less favorable than that level provided for other physical illness generally. Benefits for treatment of severe mental illness may be subject to managed care provisions contained in the policy or certificate.

(2) Benefits provided pursuant to subsection (1) include but are not limited to:

(a) inpatient hospital services;

(b) outpatient services;

(c) rehabilitative services;

(d) medication;

(e) services rendered by a licensed physician, licensed advanced practice registered nurse with a specialty in mental health, licensed social worker, licensed psychologist, or licensed professional counselor when those services are part of a treatment plan recommended and authorized by a licensed physician; and

(f) services rendered by a licensed advanced practice registered nurse with prescriptive authority and specializing in mental health.

(3) Benefits provided pursuant to this section must be included when determining maximum lifetime benefits, copayments, and deductibles.

(4) (a) This section applies to health service benefits provided by:

(i) individual and group health and disability insurance;

(ii) individual and group hospital or medical expense insurance;

(iii) medical subscriber contracts;

(iv) membership contracts of a health service corporation; *and*

(v) health maintenance organizations~~; and~~

~~(vi) the comprehensive health association created by 33-22-1503~~.

(b) This section does not apply to the following coverages:

(i) blanket;

(ii) short-term travel;

(iii) accident only;

(iv) limited or specific disease;

(v) Title XVIII of the Social Security Act (medicare); or

(vi) any other similar coverage under state or federal government plans.

(5) This section does not limit benefits for an illness or condition that does not constitute a severe mental illness, as defined in subsection (6), but that does constitute a mental illness, as defined in 33-22-702.

(6) As used in this section, "severe mental illness" means the following disorders as defined by the American psychiatric association:

(a) schizophrenia;

(b) schizoaffective disorder;

(c) bipolar disorder;

(d) major depression;

(e) panic disorder;

(f) obsessive-compulsive disorder; and

(g) autism.

(7) Coverage for a child with autism who is 18 years of age or younger must comply with 33-22-515(3) through (5) if the child is diagnosed with:

(a) autistic disorder;

(b) Asperger's disorder; or

(c) pervasive developmental disorder not otherwise specified."

Section 23. Section 33-22-1501, MCA, is amended to read:

"33-22-1501. Definitions. As used in this part, the following definitions apply:

(1) "Association" means the comprehensive health association created by 33-22-1503.

(2) "Association plan" means a policy of insurance coverage that is offered by the association and that is certified by the association ~~as required by 33-22-1521~~.

~~(3) "Association plan premium" means the charge determined pursuant to 33-22-1512 for membership in the association plan based on the benefits provided in 33-22-1521.~~

~~(4)~~*(3)* "Association portability plan" means a policy of insurance coverage that is offered by the association to a federally defined eligible individual.

~~(5)~~*(4)* "Association portability plan premium" means the charge determined by the association and approved by the commissioner for an association portability plan.

~~(6) "Block of business" means a separate risk pool grouping of covered individuals, enrollees, and dependents as defined by rules of the commissioner.~~

~~(7)~~*(5)* (a) "Eligible person" means an individual who:

(i) is a resident of this state and applies for coverage under the association plan;

(ii) is not eligible for any other form of health insurance coverage or health service benefits, except:

(A) for coverage consisting solely of excepted benefits, as defined in 33-22-140; or

(B) subject to eligibility limitations ~~adopted pursuant to 33-22-1502(2)~~, if the individual has coverage comparable to the association plan but is paying a premium or has received a renewal notice to pay a premium that is more than 150% of the average premium rate used to calculate the association plan premium rate ~~pursuant to 33-22-1512(1)~~; and

(iii) meets one or more of the following criteria:

(A) has, within 6 months prior to the date of application, been rejected for disability insurance or health service benefits by at least one insurer, society, or health service corporation, unless the association waives this requirement; or

(B) has had a restrictive rider or preexisting conditions limitation required by at least one insurer, society, or health service corporation that has the effect of substantially reducing coverage from that received by a person considered a standard risk.

(b) The term does not apply to an individual who is certified as eligible for federal trade adjustment assistance or for pension benefit guaranty corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002, and is eligible for the association portability plan.

~~(8)~~*(6)* "Federally defined eligible individual" means a person who is an individual enrolling in the association portability plan:

(a) for whom, as of the date on which the individual seeks coverage under the association portability plan, the aggregate of the periods of creditable coverage is 18 months or more and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) who does not have other health insurance coverage;

(c) who is not eligible for coverage under:

(i) a group health plan;

(ii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4; or

(iii) a state plan under Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, or a successor program;

(d) for whom the most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(e) who, if offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, elected that coverage; and

(f) who has exhausted continuation coverage under the COBRA continuation provision or program described in subsection ~~(8)(e)~~ *(6)(e)* if the individual elected the continuation coverage described in subsection ~~(8)(e)~~ *(6)(e)*.

~~(9)~~*(7)* "Health service corporation" means a corporation operating pursuant to Title 33, chapter 30, and offering or selling contracts of disability insurance.

~~(10)~~*(8)* "Insurance arrangement" means any plan, program, contract, or other arrangement to the extent not exempt from inclusion by virtue of the provisions of the federal Employee Retirement Income Security Act of 1974 under which one or more employers, unions, or other organizations provide to their employees or members, either directly or indirectly through a trust of a third-party administrator, health care services or benefits other than through an insurer.

~~(11)~~*(9)* "Insurer" means a company operating pursuant to Title 33, chapter 2 or 3, and offering or selling policies or contracts of disability insurance, as provided in Title 33, chapter 22.

~~(12)~~*(10)* "Lead carrier" means the licensed administrator or insurer selected by the association to administer the association plan.

~~(13)~~*(11)* "Medicare" means coverage under both parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. 1395, et seq., as amended.

~~(14)~~*(12)* "Preexisting condition" means any condition for which an applicant for coverage under the association plan has received medical attention during the 3 years immediately preceding the filing of an application.

~~(15) "Qualified TAA-eligible individual" means an individual and any dependent of that individual, in addition to meeting the requirements specified in subsection (18):~~

~~(a) who has 3 months of prior creditable coverage;~~

~~(b) whose application for association portability plan coverage is made within 63 days following termination of the applicant's most recent prior creditable coverage; and~~

~~(c) who, if eligible for COBRA, is not required to elect or exhaust continuation coverage under the COBRA continuation provision or under a similar state program.~~

~~(16)~~*(13)* "Resident" means an individual who has been legally domiciled in this state for a period of at least 30 days, except that for a federally defined eligible individual there is no 30-day requirement. The criteria for determining residency must be specified in the association's operating rules.

~~(17)~~*(14)* "Society" means a fraternal benefit society operating pursuant to Title 33, chapter 7, and offering or selling certificates of disability insurance.

~~(18) "TAA-eligible individual" means an individual and any dependent of that individual enrolling in the association portability plan:~~

~~(a) who is a resident of this state on the date of application to the pool;~~

~~(b) who has been certified as eligible for federal trade adjustment assistance and a health insurance tax credit or for pension benefit guaranty corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002;~~

~~(c) who does not have other health insurance coverage; and~~

~~(d) who is not covered under a group health plan maintained by an employer, including a group health plan available through a spouse, if the employer contributes 50% or more to the total cost of coverage.~~

~~(19)~~*(15)* "Termination plan" means a contingency plan developed by the association board of directors that provides conditions for cessation of the block of business in the association plan and the association portability plan."

Section 24. Section 33-22-1502, MCA, is amended to read:

"33-22-1502. Duties of commissioner — rules. ~~(1)~~ The commissioner shall:

~~(a) supervise the creation of the association within the limits described in 33-22-1503;~~

~~(b) approve the selection of the lead carrier by the association and approve the association's contract with the lead carrier, including the association plan coverage and premiums to be charged;~~

~~(c) conduct periodic audits to ensure the general accuracy of the financial data submitted by the lead carrier and the association;~~

~~(d) undertake, directly or through contracts with other persons, studies or demonstration projects to develop awareness of the benefits of this part so that the residents of this state may best avail themselves of the health care benefits provided by this part;~~

~~(e) adopt rules to carry out the provisions and purposes of this part, including rules regarding late payment penalties or rates of interest charged on an unpaid assessment; and~~

~~(f)~~*(1)* review a termination plan and approve, in conjunction with the approval of the termination plan, the dissolution of the association board of

directors and cessation of the association plan and the association portability plan in accordance with state and federal laws.*; and*

(2) ~~The commissioner may adopt rules that limit association plan eligibility under 33-22-1501(7)(a)(ii)(B) according to income level~~ *supervise the windup of the businesses of the association*."

Section 25. Section 33-22-1504, MCA, is amended to read:

"33-22-1504. Association board of directors — organization — duties. (1) There is a board of directors of the association, consisting of nine members as follows:

(a) one member from each of the five participating members of the association with the highest annual premium volume of disability insurance contracts, health maintenance organization health care services agreements, or health service corporation contracts, derived from or on behalf of residents in the previous calendar year, as determined by the commissioner;

(b) two members at large who must be participating members of the association, appointed by the commissioner; and

(c) two members at large, appointed by the commissioner to represent the public interest.

(2) The public interest board members provided for in subsection (1)(c) must be enrolled in a Montana comprehensive health association plan at the time of appointment.

(3) The public interest board members are entitled to one board vote each. Each of the seven board members representing the association members is entitled to a weighted average vote, in person or by proxy, based on the association member's annual Montana premium volume. However, a board member may not have more than 50% of the vote.

(4) Members of the board may be reimbursed from the money of the association for expenses incurred by them because of their service as board members but may not otherwise be compensated by the association for their services. The costs of conducting the meetings of the association and reimbursing its board of directors must be borne by participating members of the association in accordance with 33-22-1513.

(5) The commissioner may replace a board member if the commissioner determines that the board member is not actively participating in the affairs of the board or if the participating member does not appoint a board representative within a reasonable time period. A board member appointed under subsection (1)(a) must be replaced by a participating member of the association with the next highest annual Montana premium volume of disability insurance contracts, health maintenance organization health care service agreements, or health service corporation contracts, derived from or on behalf of residents in the previous calendar year, as determined by the commissioner.

(6) The commissioner shall include the applicable premium volume of all affiliates, as defined in 33-2-1101, in making the determination required by subsection (1)(a) or (5).

(7) (a) The board of directors of the association shall develop a termination plan that specifies a time when the eligibility requirements for an eligible person and a federally defined eligible individual are no longer valid because of changes in the health insurance market. The commissioner shall review the termination plan, which is subject to the commissioner's approval.

(b) The termination plan must include:

(i) a proposed timeline to allow enrolled members of the association plan and the association portability plan to acquire other health insurance;

(ii) financial data showing the general plan for completing all financial transactions within the association plan and the association portability plan as provided in 33-22-1513 and the effect that the plan will have on funding sources, including tobacco settlement funds ~~allocated pursuant to 17-6-606~~;

(iii) documents and related educational materials designed to inform enrolled members of the association plan and the association portability plan of obligations and methods to transfer to other health insurance plans. The plan must include at least a 90-day notice of nonrenewal.

(iv) proposed language for the repeal of Title 33, chapter 22, part 15.

(8) The commissioner shall present the termination plan to the economic affairs interim committee.

(9) Since the termination of all association plans occurred on December 31, 2013, the board of directors of the association pursuant to this part shall wind up the business of the association, including paying claims and resolving all appeals resulting from those claims."

Section 26. Section 33-22-1513, MCA, is amended to read:

"33-22-1513. Operation of association plan and association portability plans. ~~(1) Upon acceptance by the lead carrier under 33-22-1516, an eligible person may enroll in the association plan by payment of the association plan premium to the lead carrier.~~

~~(2) Upon application by a federally defined eligible individual or a TAA-eligible individual to the lead carrier for an association portability plan, the association may not:~~

~~(a) decline to offer an association portability plan; or~~

~~(b) except as provided in subsection (3), impose a preexisting condition exclusion with respect to an individual's association portability plan coverage if application for association portability plan coverage is made within 63 days following termination of the applicant's most recent prior creditable coverage.~~

~~(3) The association may impose a preexisting condition exclusion as provided in 33-22-1516 with respect to a TAA-eligible individual's association portability plan coverage if that individual does not meet the requirements defining a qualified TAA-eligible individual.~~

~~(4)~~*(1)* Not less than 88% of the association plan and the association portability plan premiums paid to the lead carrier may be used to pay claims and not more than 12% may be used for payment of the lead carrier's direct and indirect expenses as specified in 33-22-1514.

~~(5)~~*(2)* Any income in excess of the costs incurred by the association in providing reinsurance or administrative services must be held at interest and used by the association to offset past and future losses because of claims expenses of the association plan and the association portability plan ~~or be allocated to reduce association plan and association portability plan premiums~~.

~~(6)~~*(3)* (a) Each participating member of the association shall share the losses because of claims expenses of the association plan and the association portability plan for plans issued or approved for issuance by the association and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs in the following manner:

(i) Each participating member of the association must be assessed by the association on an annual basis an amount not to exceed 1% of the association member's total disability insurance premium received from or on behalf of Montana residents as determined by the commissioner. Assessments made under this subsection ~~(6)(a)~~ *(3)(a)* or funds from any other source must be allocated to the association plan and the association portability plan in proportion to the needs of the two plans. If the needs of the association plan and the association portability plan exceed the funds generated by the 1% assessment, the association is then authorized to spend any funds appropriated by the legislature for the support of the plans. Any appropriation to the association may be expended for the operation of the association plan or the association portability plan.

(ii) (A) Payment of an assessment is due within 30 days of receipt by a member of a written notice of the annual assessment. After 30 days, the association shall charge a member:

(I) a late payment penalty of 1.5% a month or fraction of a month on the unpaid assessment, not to exceed 18% of the assessment due;

(II) interest at the rate of 12% a year on the unpaid assessment, to be accrued at 1% a month or fraction of a month; or

(III) both of the charges in subsections ~~(6)(a)(ii)(A)(I) and (6)(a)(ii)(A)(II)~~ *(3)(a)(ii)(A)(I) and (3)(a)(ii)(A)(II)*.

(B) Failure by a contributing member to tender the association assessment within the 30-day period is grounds for termination of membership. A member terminated for failure to tender the association assessment is ineligible to write health care benefit policies or contracts in this state under 33-22-1503(2).

(iii) An association member that ceases to do disability insurance business within the state remains liable for assessments through the calendar year in which the member ceased doing disability insurance business. The association may decline to levy an assessment against an association member if the assessment, as determined pursuant to this section, would not exceed $50.

(b) For purposes of this subsection ~~(6)~~ *(3)*, "total disability insurance premium" does not include premiums received from disability income insurance, credit disability insurance, disability waiver insurance, life insurance, medicare risk or other similar medicare health maintenance organization payments, or medicaid health maintenance organization payments.

(c) Any income in excess of the incurred or estimated claims expenses of the association plan and the association portability plan and the operating and administrative expenses of the association must be held at interest and used by the association to offset past and future losses because of claims expenses of the association plan and the association portability plan or be allocated to reduce association plan and association portability plan premiums.

~~(7)~~*(4)* The proportion of the annual assessment allocated to the operation and expenses of the association plan, not to include any amount of late payment penalty or interest charged, may be offset by an association member against the premium tax payable by that association member pursuant to 33-2-705 for the year in which the annual assessment is levied. The commissioner shall report to the office of budget and program planning, as a part of the information required by 17-7-111, the total amount of premium tax offset claimed by association members during the preceding biennium. The proportion of the annual assessment allocated to the operation and expenses of the association

portability plan and levied against an association member may not be offset against the premium tax payable by that association member.

~~(8)~~*(5)* The association may also accept funding from the federal government, private foundations, and other private funding sources."

Section 27. Section 33-22-1804, MCA, is amended to read:

"33-22-1804. Applicability and scope. (1) This part applies to a health benefit plan marketed through a small employer that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(a) a portion of the premium or benefits is paid by or on behalf of the small employer;

(b) an eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;

(c) the health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code, except a plan or program that is funded entirely by contributions from the employees; or

(d) all of the premium is paid by the employee who obtains coverage through the employer's group health benefit plan.

(2) This part does not apply to an individual health benefit plan for which the entire premium is paid by an employee through payroll deduction or other means.

(3) Unless prohibited by a written opinion from a federal agency, by final regulations implementing Public Law 104-191, or by a ruling by a court of competent jurisdiction, this part does not apply to an individual health benefit plan if the eligible employee or dependent is directly or indirectly reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium. However, this part does apply to an individual health benefit plan if the employer making the direct or indirect reimbursement for any portion of the premium has had in place an employer-sponsored group health benefit plan in the 12 months preceding the reimbursement.

~~(4) This part does not apply to an individual health benefit plan for which the premium is paid by a small employer pursuant to 33-22-166.~~"

Section 28. Section 33-30-107, MCA, is amended to read:

"33-30-107. Annual statement. (1) On or before March 1 of each year, each health service corporation shall file an annual statement for the preceding year on the national association of insurance commissioners' health blank form with the commissioner of insurance. This annual statement must be completed in accordance with the annual statement instructions and the Accounting Practices and Procedures Manual of the national association of insurance commissioners. The statement must be accompanied by an actuarial opinion attesting to the insurer's reserves.

(2) The health service corporation shall file a statement containing any other information concerning its financial affairs that may be reasonably requested by the commissioner.

(3) (a) Each health service corporation shall file electronic versions of its annual and quarterly financial statements with the national association of insurance commissioners. The date for submission of the annual statement

electronic filing is March 1. The dates for submission of the quarterly statement electronic filing are as follows:

(i) the first quarter filing is due May 15;

(ii) the second quarter filing is due August 15; and

(iii) the third quarter filing is due November 15.

(b) The commissioner may exempt health service corporations operating only in Montana from these filing requirements.

(c) The health service corporation shall pay all fees and costs associated with preparing the annual statement and other filings and submitting them to the national association of insurance commissioners.

(4) The commissioner may, after notice and hearing, suspend or revoke a health service corporation's ~~license~~ *certificate of authority* or impose a fine not to exceed $100 a day and not to exceed $1,000 upon a health service corporation that fails to file an annual statement as required by this part."

Section 29. Section 33-30-108, MCA, is amended to read:

"33-30-108. ~~License~~ *Certificate* required. (1) A person may not act as a health service corporation and a health service corporation may not conduct business in this state except as authorized by a ~~license~~ *certificate of authority* issued by the commissioner.

(2) The commissioner may issue a ~~license~~ *certificate of authority* after the person has complied with the applicable provisions of this title and has submitted an application on a form prescribed by the commissioner.

(3) A health service corporation is entitled to a continuation of its ~~license~~ *certificate of authority* upon payment of the annual continuation fee specified in 33-30-204 on or before March 1 of each year and upon continued compliance with the provisions of this title.

(4) The commissioner may revoke or suspend any ~~license~~ *certificate of authority* issued under this section for violations of this title."

Section 30. Section 33-30-201, MCA, is amended to read:

"33-30-201. Reserves — requirements suspended. (1) The corporation shall maintain at all times unobligated funds adequate to:

(a) provide the hospital, medical-surgical, and other health services made available to its members and beneficiaries; and

(b) meet all costs and expenses.

(2) In addition, reserves of a health service corporation in cash, certificates of deposit, obligations issued or guaranteed by the government of the United States, or other assets approved by the commissioner must be maintained in an amount not less than:

(a) $500,000 or, if ~~licensed~~ *authorized* under this chapter after October 1, 1999, $750,000; or

(b) an amount equal to 1 month's average income from dues or fees paid to the corporation by its members or beneficiaries, based on an average of the preceding 12 months, whichever is less.

(3) The determination of minimum reserves is subject, as to amounts payable to participating providers of the health services, to any right of the corporation to prorate the amounts under the terms of its health service contracts with providers.

(4) The commissioner may decrease or suspend the requirements of this section if the commissioner finds that the action is in the best interest of the members of the corporation."

Section 31. Section 33-30-204, MCA, is amended to read:

"33-30-204. Fees. (1) Every health service corporation subject to the provisions of this chapter shall pay the following fees to the commissioner for enforcement of the provisions of this chapter:

(a) for a certified copy of any document or other paper filed in the office of the commissioner, per page, 50 cents;

(b) filing of a membership contract, $25;

(c) filing of a membership contract package, $100;

(d) filing annual statement, $25;

(e) issuance of health service corporation ~~license~~ *certificate of authority*, $300; and

(f) annual continuation of health service corporation ~~license~~ *certificate of authority*, $300.

(2) The commissioner shall promptly deposit with the state treasurer, to the credit of the state special revenue fund of the state auditor's office, all fees and ~~license~~ *certificate of authority* fees received under this section."

Section 32. Section 33-35-301, MCA, is amended to read:

"33-35-301. Reporting. (1) A self-funded multiple employer welfare arrangement shall comply with the reporting requirements of this section.

(2) Within 3 months following the close of the arrangement's year of operations, the arrangement shall file with the commissioner, on forms prescribed by the commissioner:

(a) a statement of financial condition;

(b) a statement of change in financial conditions accompanied by an actuarial opinion that the unpaid claim liability of the arrangement satisfies the standards of 33-2-514. The commissioner may, in the commissioner's discretion, waive the requirement of an actuarial opinion and require a report prepared by an actuarial firm and, upon a showing of good cause, may extend by 30 days the filing date for the report.

(c) a statement of its contribution rates for the ensuing year;

(d) a statement of operations for the previous year;

(e) if the total payments to the arrangement for participation during the prior year of operations exceeded the sum of $2 million, an audit satisfying the requirements of the commissioner's rules governing annual audited reports, *except that an arrangement audit may be prepared using generally accepted accounting principles. The audit must be* certified by an independent certified public accountant. The filing date for the audit must be extended by the commissioner upon a showing of good cause.

(f) additional information as the commissioner reasonably determines to be necessary to determine the financial integrity of the management.

(3) An arrangement shall file with the commissioner a copy of the arrangement's internal revenue service form 5500 together with all attachments to the form, at the time required for filing the form."

Section 33. Section 53-2-215, MCA, is amended to read:

"53-2-215. Social Security Act section 1115 waiver. (1) The department may pursue approval from the U.S. department of health and human services

for implementation in Montana of a health insurance flexibility and accountability demonstration initiative and other demonstration projects through section 1115 waivers.

(2) The department may implement a demonstration project upon approval of a section 1115 waiver by the U.S. department of health and human services. The department may:

(a) coordinate a demonstration project with a program approved through a section 1915 waiver; or

(b) terminate and subsume in a new section 1115 waiver an existing managed care or access program approved through a section 1915(b) waiver, an optional state plan medicaid service authorized under 53-6-101, an optional state plan eligibility group authorized under 53-6-131, or an existing program approved by a section 1115 waiver, inclusive of the demonstration program authorized by 53-4-202 and Title 53, chapter 4, part 6, that is administered by the department.

(3) The department may amend the existing section 1115 demonstration project authorized in 53-4-601 and 53-6-101 to expand the demonstration project to implement the purposes of this section.

(4) The department may initiate and administer section 1115 waivers to more efficiently apply available state general fund money, other available state and local public and private funding, and federal money to the development and maintenance of medicaid-funded programs of health services and of other public assistance services and to structure those programs or services for more efficient and effective delivery to specific populations.

(5) (a) In establishing programs or services in a demonstration project approved through a section 1115 waiver, the department shall administer the expenditures under each demonstration project within the state spending authority that is available for that demonstration project. The department may limit enrollments in each program within a demonstration project, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through each program when the department determines that expenditures can be reasonably expected to exceed the available state spending authority.

(b) The department shall develop a contingency plan if there is a spending cap as a condition of the waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs, services, or eligibility groups.

(6) The department may coordinate the state children's health insurance program authorized under Title 53, chapter 4, part 10, with a section 1115 waiver for the purpose of increasing the state funding match available under the waiver and expanding the number of participants in the state children's health insurance program.

(7) The department, subject to the terms and conditions of the section 1115 waiver:

(a) shall establish the eligibility groups based upon the funding principles stated in 53-6-101(2);

(b) may provide medicaid coverage for one or more optional medicaid eligibility groups;

(c) may provide medicaid coverage for one or more specific populations of persons who are not within the federally authorized medicaid eligibility groups but who are within the requirements of subsection (8);

(d) may establish the service coverage, eligibility requirements, financial participation requirements, and other features for the administration and delivery of services to each section 1115 waiver eligibility group;

(e) shall set limits on the number of participants for each section 1115 waiver eligibility group;

(f) shall set limits on the total expenditures under each demonstration project; and

(g) shall set the limits on the total expenditures on the services to be provided to each section 1115 waiver eligibility group.

(8) The categories of persons that the department may consider for establishment as a section 1115 waiver eligibility group include but are not limited to:

(a) low-income parents of children who are eligible to participate in medicaid under 53-6-131 or in the state children's health insurance program authorized under Title 53, chapter 4, part 10;

~~(b) persons who because of low income and health-care needs are unable to procure health insurance coverage and are eligible to participate in a comprehensive health association plan authorized under Title 33, chapter 22, part 15;~~

~~(c)~~*(b)* children who because of limits on enrollment may not be covered through the state children's health insurance program authorized under Title 53, chapter 4, part 10;

~~(d)~~*(c)* children who are eligible to participate in the state children's health insurance program authorized under Title 53, chapter 4, part 10; and

~~(e)~~*(d)* other specific groups of persons who are participants in programs or services funded solely or primarily through state general funds or who the department determines are in need of specific types of health care and related services, such as prescription drugs, reproductive health care, and mental health services, and are without adequate financial means to procure health insurance coverage of those needs.

(9) Children participating in a section 1115 waiver eligibility group or children who would be eligible to participate in the state children's health insurance program are subject to the eligibility criteria applicable under 53-4-1004, except as provided in subsection (10) of this section, for participation in the state children's health insurance program and must receive benefits as provided through the state children's health insurance program under 53-4-1005.

(10) (a) Except as provided in this subsection (10), the eligibility for the section 1115 waiver eligibility groups may not exceed 150% of the federal poverty level.

(b) The department may establish eligibility at greater than 150% but no more than 200% of the federal poverty level for any of the following groups established for purposes of a section 1115 waiver:

(i) participants in the state children's health insurance program;

(ii) participants in a group that may be covered under the state children's health insurance program;

(iii) participants in a family planning program;

(iv) participants in a group composed of persons previously served through a program funded with state general fund money and other nonmedicaid money; or

(v) participants in a group composed of persons with a significant need for particular services that are not readily available to that population through insurance products or because of personal financial limitations.

(c) In establishing the eligibility criteria based upon federal poverty levels, the department shall select levels to ensure that the resulting expenditures will remain within the available funding and will conform with the terms and conditions of approval by the U.S. department of health and human services.

(d) The department may adopt additional programmatic and financial eligibility criteria for a section 1115 waiver eligibility group in order to appropriately define the subject population, to limit use for fiscal and programmatic purposes, to prevent improper use, and to conform the administration of the program with the terms and conditions of the section 1115 waiver.

(e) Eligibility criteria applicable to a section 1115 waiver eligibility group need not conform to the criteria applicable to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within the demonstration project.

(11) (a) For each section 1115 waiver eligibility group, the department shall establish the program benefit or benefits to be available to the participants in the group.

(b) Program benefits may be in the form of:

(i) assistance in the payment of health insurance premiums for health care coverage through an employer or other existing group coverage available to the program enrollee;

(ii) assistance in the payment of health insurance premiums for health care coverage that meets a set of defined standards and limitations adopted by the department in consultation with the commissioner of insurance and obtained from participating private insurers or through self-insured pools;

(iii) premium purchase for insurance coverage on behalf of children who are 18 years of age or younger for the defined set of health care and related services adopted by the department for the state children's health insurance program authorized in Title 53, chapter 4, part 10; or

(iv) coverage of a defined set of health care and related services administered directly by the department on a fee-for-service basis.

(c) The department may limit the types of program benefits available to enrollees in a program. For programs in which the department provides for more than one type of program benefit, the department may require that enrollees, either as a whole or on an individual basis based on certain circumstances, use certain types of program benefits in lieu of using other types of program benefits.

(d) The department shall, as necessary to maintain expenditures for a program within the available funding for that program, set monetary limitations on the total benefit amounts available on a periodic basis for an enrollee through that program, whether that benefit is in the form of premium assistance, premium purchase, or a set of covered services.

(12) The benefits for a section 1115 waiver eligibility group may be in the form of a defined set of covered services consisting of one or more of the mandatory and optional medicaid state plan services specified in 53-6-101 or other health-care related services. The department may select the types of services that constitute a defined set of covered services for a section 1115 waiver eligibility group. The department may provide coverage of a service not

specified in 53-6-101 if the department determines the service to be appropriate for the particular section 1115 waiver eligibility group. The department may define the nature, components, scope, amount, and duration of each covered service to be made available to a section 1115 waiver eligibility group. The nature, components, scope, amount, and duration of a covered service made available to a section 1115 waiver eligibility group need not conform to those aspects of that service as defined by the department for delivery as a covered service to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within a section 1115 waiver.

(13) The department may adopt financial participation requirements for enrollees in a section 1115 eligibility group to foster appropriate use among enrollees and to maintain the fiscal accountability of the program. The department may adopt financial participation requirements, including but not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The requirements may vary among the section 1115 waiver eligibility groups. In adopting financial participation requirements for enrollees selecting coverage as provided in subsection (11)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically needy persons for a service pursuant to the state medicaid plan.

(14) The department shall adopt rules as necessary for the implementation of a section 1115 waiver. Rules may include but are not limited to:

(a) designation of programs and activities for implementation of a section 1115 waiver;

(b) features and benefit coverage of the programs;

(c) the nature, components, scope, amount, and duration of each program service;

(d) appropriate insurance products and coverage as benefits;

(e) required enrollee eligibility information;

(f) enrollee eligibility categories, criteria, requirements, and related measures;

(g) limits upon enrollment;

(h) requirements and limitations for service costs and expenditures;

(i) measures to ensure the appropriateness and quality of services to be delivered;

(j) provider requirements and reimbursement;

(k) financial participation requirements for enrollees;

(l) use measures; and

(m) other appropriate provisions necessary for administration of a demonstration project and for implementation of the conditions placed upon approval of a section 1115 waiver by the U.S. department of health and human services.

(15) The department shall administer the programs and activities that are subject to a section 1115 waiver in accordance with the terms and conditions of approval by the U.S. department of health and human services. The department may modify aspects of established programs and activities administered by the department as may be necessary to implement a section 1115 waiver as provided in this section.

(16) The department may seek an initial duration and durational extensions for a section 1115 waiver as the department determines appropriate for demonstration and fiscal considerations.

(17) The department shall provide a report to the legislature, as provided in 5-11-210, on the conditions of approval and the status of implementation for each section 1115 waiver approved by the U.S. department of health and human services. For any proposed section 1115 waiver not approved by the U.S. department of health and human services, the department shall provide to the next legislative session a report on the basis for disapproval and an analysis of the fiscal costs and programmatic impacts of serving the persons within the proposed section 1115 waiver eligibility groups through eligibility under one of the optional medicaid eligibility categories established in federal law and authorized by 53-6-131.

(18) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal government.

(19) The department shall present a section 1115 waiver proposal to the house appropriations committee or, during the interim, the children, families, health, and human services interim committee for review and comment at a public hearing prior to the submission of the proposal to the federal government for formal approval and shall also present the section 1115 waiver after final approval from the federal government.

(20) (a) The department shall provide for a public comment period on the proposed section 1115 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government for formal approval.

(b) The department shall give notice of the proposal by announcing the pending submittal, stating its general purpose, and informing the public that information on the proposal is available on the department's website.

(c) The department shall provide for public comment through electronic means or mail and shall provide for a public forum in at least one location at which members of the public can submit views on the proposal. The department shall consider comments received and make any appropriate changes to the waiver request before submitting it to the federal government.

(d) The department shall post on its website the waiver concept paper, formal correspondence regarding a waiver proposal, and the final approved waiver, including documents received from the center for medicare and medicaid services."

Section 34. Section 53-4-1007, MCA, is amended to read:

"53-4-1007. (Temporary) Department may contract for services. (1) The department of public health and human services may administer the program directly or contract with insurance companies or other entities to provide services for a set monthly or yearly fee based on the number of participants in the program and the types of services provided or based on a fee for service as established by the department.

(2) The department of public health and human services may contract for a health care service based on a fee for service when the department does not contract for a health care service through an insurance plan, a health maintenance organization, or a managed care plan. A contract entered into or renewed on or after July 1, 2009, may not limit enrollee access to providers who are willing to provide services at the rates provided for under the program. In operating the program and providing health services, the department may:

(a) pay providers on a fee-for-service basis in a self-funded program and contract with an insurance company, third-party administrator, or other entity to provide administrative services, including but not limited to processing and payment of claims with program funds;

(b) purchase health coverage for eligible children from an insurance company or other entity through premiums, capitated payments, or other appropriate methods;

(c) purchase health coverage as provided in subsection (2)(b) for some types of health services and contract directly with providers for other types of health services on a fee-for-service basis; or

(d) pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program.

(3) If the department of public health and human services contracts with an insurance company or other entity to administer the program as provided in subsection (2)(b) or (2)(c), not more than 12% of the contract payment may be used for administrative expenses, including:

~~(a) direct and indirect expenses as specified in 33-22-1514;~~

~~(b)~~*(a)* risk charges; and

~~(c)~~*(b)* any applicable assessments, fees, and taxes.

(4) If the department operates the program by providing administrative services under subsection (2)(a), (2)(c), or (2)(d), the department's administrative expense may not exceed the lesser of 10% of total program expenses or the applicable federal limitation, excluding costs for federally required audits.

(5) (a) An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in 53-4-1012.

(b) For the purposes of this subsection (5):

(i) "risk charge" means the percentage of the administrative expense allowed in the contract for assuming the risk; *and*

(ii) "surplus account balance" means funds that remain after all claims and all administrative expenses have been paid for a claim period. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999; sec. 7, Ch. 565, L. 2005; sec. 5, Ch. 129, L. 2007.)"

Section 35. Repealer. (1) The following sections of the Montana Code Annotated are repealed:

33-2-1912. Applicability for 1995.

33-17-1003. Return of license.

33-18-214. Unfair referral as unfair trade practice.

33-22-166. Employer payment of employee individual disability coverage.

33-22-245. Uniform health benefit plan — individual.

33-22-1511. Minimum benefits of association plan.

33-22-1512. Association plan and association portability plan premium.

33-22-1515. Solicitation of eligible persons.

33-22-1516. Enrollment by eligible person.

33-22-1517. Limitations on eligibility.

33-22-1518. Unfair referral to plan.
33-22-1521. Association plan — minimum benefits.
33-22-1523. Association portability plans.
33-22-1524. Association authority for borrowing.
33-31-322. Uniform health benefit plan — health maintenance organization.

(2) The following sections of the Montana Code Annotated are repealed:

33-22-1501. Definitions.
33-22-1502. Duties of commissioner — rules.
33-22-1503. Comprehensive health association — mandatory membership.
33-22-1504. Association board of directors — organization — duties.
33-22-1505. Liability of association membership.
33-22-1513. Operation of association plan and association portability plans.
33-22-1514. Administration of association plan — rules.

Section 36. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 37. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 3, 19, 20, 22, 33, and 35(2)] are effective January 1, 2016.

Approved February 27, 2015

CHAPTER NO. 64

[HB 128]

AN ACT REQUIRING THE BOARD OF PARDONS AND PAROLE TO COMPLY WITH THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING THAT THE BOARD OF PARDONS AND PAROLE IS EXEMPT FROM THE CONTESTED CASE AND JUDICIAL REVIEW OF CONTESTED CASES PORTIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND AMENDING SECTION 2-4-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-102, MCA, is amended to read:

"2-4-102. (Temporary) Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative rule review committee" or "committee" means the appropriate committee assigned subject matter jurisdiction in Title 5, chapter 5, part 2.

(2) (a) "Agency" means an agency, as defined in 2-3-102, of state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons and parole *is exempt from the contested case and judicial review of contested cases provisions contained in this chapter*~~,~~ ~~except that~~. *However,* the board is subject to the *remainder of the provisions of this chapter*. ~~requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the ARM and the register;~~

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youth or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works;

(v) the public service commission when conducting arbitration proceedings pursuant to 47 U.S.C. 252 and 69-3-837.

(b) The term does not include a school district, a unit of local government, or any other political subdivision of the state.

(3) "ARM" means the Administrative Rules of Montana.

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) (a) "Interested person" means a person who has expressed to the agency an interest concerning agency actions under this chapter and has requested to be placed on the agency's list of interested persons as to matters of which the person desires to be given notice.

(b) The term does not extend to contested cases.

(6) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(7) "Licensing" includes an agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(8) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person as a party for limited purposes.

(9) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(10) "Register" means the Montana Administrative Register.

(11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule.

(b) The term does not include:

(i) statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system;

(ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication

of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals; or

(v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the ARM.

(12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial fiscal impact to or controversy involving a particular class or group of individuals.

(b) The term does not extend to contested cases.

(13) "Small business" means a business entity, including its affiliates, that is independently owned and operated and that employs fewer than 50 full-time employees.

(14) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law. (Terminates July 1, 2015—sec. 6, Ch. 318, L. 2013.)

2-4-102. (Effective July 2, 2015) Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative rule review committee" or "committee" means the appropriate committee assigned subject matter jurisdiction in Title 5, chapter 5, part 2.

(2) (a) "Agency" means an agency, as defined in 2-3-102, of state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons and parole *is exempt from the contested case and judicial review of contested cases provisions contained in this chapter*~~, except that~~. *However,* the board is subject to the *remainder of the provisions of this chapter*. ~~requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the ARM and the register;~~

(ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youth or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works;

(v) the public service commission when conducting arbitration proceedings pursuant to 47 U.S.C. 252 and 69-3-837.

(b) The term does not include a school district, a unit of local government, or any other political subdivision of the state.

(3) "ARM" means the Administrative Rules of Montana.

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) (a) "Interested person" means a person who has expressed to the agency an interest concerning agency actions under this chapter and has requested to be placed on the agency's list of interested persons as to matters of which the person desires to be given notice.

(b) The term does not extend to contested cases.

(6) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(7) "Licensing" includes an agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(8) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person as a party for limited purposes.

(9) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(10) "Register" means the Montana Administrative Register.

(11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule.

(b) The term does not include:

(i) statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system;

(ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals; or

(v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the ARM.

(12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial fiscal impact to or controversy involving a particular class or group of individuals.

(b) The term does not extend to contested cases.

(13) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

Approved February 27, 2015

CHAPTER NO. 65

[HB 147]

AN ACT ADOPTING THE NURSE LICENSURE COMPACT; PROVIDING SUPPLEMENTAL PROVISIONS; AND PROVIDING RULEMAKING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Nurse licensure compact — enactment. The Nurse Licensure Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth below.

Article I. Findings and Declaration of Purpose

(1) The party states find that:

(a) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(b) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(c) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(d) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(e) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

(2) The general purposes of this compact are to:

(a) facilitate the states' responsibility to protect the public's health and safety;

(b) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(c) facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(d) promote compliance with the laws governing the practice of nursing in each jurisdiction;

(e) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

Article II. Definitions

As used in this compact:

(1) "Adverse action" means a home or remote state action.

(2) "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.

(3) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards.

(4) "Current significant investigative information" means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(5) "Home state" means the party state that is the nurse's primary state of residence.

(6) "Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

(7) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(8) "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice.

(9) "Nurse" means a registered nurse or licensed practical/vocational nurse, as each party's state practice laws define those terms.

(10) "Party state" means any state that has adopted this compact.

(11) "Remote state" means a party state, other than the home state:

(a) where the patient is located at the time nursing care is provided; or

(b) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

(12) "Remote state action" means:

(a) any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(b) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(14) "State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Article III. General Provisions and Jurisdiction

(1) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(2) Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(3) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

(4) This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

(5) Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Article IV. Applications for Licensure in a Party State

(1) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

(2) A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

(3) A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

(4) When a nurse changes primary state of residence by:

(a) moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

(b) moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;

(c) moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

Article V. Adverse Actions

In addition to the general provisions described in Article III, the following provisions apply:

(1) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(3) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.

(4) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

(6) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

Article VI. Additional Authorities Invested
in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(1) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

(3) issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

(4) promulgate uniform rules and regulations as provided for in Article VIII.

Article VII. Coordinated Licensure Information System

(1) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

(3) Current significant investigative information must be transmitted through the coordinated licensure information system only to party state licensing boards.

(4) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(5) Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(6) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.

(7) The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

Article VIII. Compact Administration and Interchange of Information

(1) The head of the nurse licensing board or a designee of each party state shall be the administrator of this compact for that state.

(2) The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

(3) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules must be adopted by party states, under the authority invested under Article VI.

Article IX. Entry into Force, Withdrawal and Amendment

(1) This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(2) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

(3) Nothing contained in this compact must be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

(4) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

Article X. Construction and Severability

(1) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(2) In the event party states find a need for settling disputes arising under this compact:

(a) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state; an individual appointed by the compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(b) The decision of a majority of the arbitrators shall be final and binding.

Section 2. Supplemental provisions. (1) A person who is extended the privilege to practice nursing in this state pursuant to the Nurse Licensure Compact:

(a) shall use a title authorized under Title 37, chapter 8, part 4, that is appropriate to the person's qualifications; and

(b) is subject to the same investigatory and disciplinary procedures as a person who is otherwise licensed to practice nursing under this chapter.

(2) The Nurse Licensure Compact is not intended to supersede state labor laws or relieve any employer from complying with statutory obligations.

(3) The executive director provided for in 37-8-204 shall serve as the administrator of the Nurse Licensure Compact for this state.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 8, and the provisions of Title 37, chapter 8, apply to [sections 1 and 2].

Approved February 27, 2015

CHAPTER NO. 66

[HB 157]

AN ACT EXTENDING SCHOOL DISTRICT LEASING AUTHORITY; AMENDING SECTIONS 20-6-609 AND 20-6-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-6-609, MCA, is amended to read:

"20-6-609. Trustees' authority to acquire property by lease-purchase agreement. The trustees of a district may acquire real and personal property by an agreement to lease for *up to 7 years for personal property and for up to* ~~3~~ *15* years *for real property* with an option to purchase. The terms of the lease must comply with 20-6-625. If real property is acquired, the trustees shall comply with 20-6-603."

Section 2. Section 20-6-625, MCA, is amended to read:

"20-6-625. Authorization to lease buildings or land for school purposes. The trustees of any district may lease buildings or land suitable for school purposes when it is within the best interests of the district to lease ~~such building~~ *the buildings* or land from the county, municipality, another district, or any person. The ~~lease may be for a term of not more than~~ *term of the lease may not exceed* ~~3~~ *15* years unless prior approval of the qualified electors of the district is obtained in the manner prescribed by law for school elections, in which case the lease may be for a term ~~of not more than~~ *approved by the qualified electors, but not exceeding* 99 years. Whenever the lease is for a period of time that is longer than the current school fiscal year, the lease requirements for the succeeding school fiscal years shall be an obligation of the final budgets for such years."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 67

[HB 195]

AN ACT REVISING PRETRIAL DIVERSION LAWS TO ALLOW DEFERRAL OF PROSECUTION TO BE ENTERED INTO UPON NOTICE BY THE PROSECUTOR; AMENDING SECTION 46-16-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-16-130, MCA, is amended to read:

"46-16-130. Pretrial diversion. (1) (a) Prior to the filing of a charge, the prosecutor and a defendant who has counsel or who has voluntarily waived counsel may agree to the deferral of a prosecution for a specified period of time based on one or more of the following conditions:

(i) that the defendant may not commit any offense;

(ii) that the defendant may not engage in specified activities, conduct, and associations bearing a relationship to the conduct upon which the charge against the defendant is based;

(iii) that the defendant shall participate in a supervised rehabilitation program, which may include treatment, counseling, training, or education;

(iv) that the defendant shall make restitution in a specified manner for harm or loss caused by the offense; or

(v) any other reasonable conditions.

(b) The agreement must be in writing, must be signed by the parties, and must state that the defendant waives the right to speedy trial for the period of deferral. The agreement may include stipulations concerning the admissibility of evidence, specified testimony, or dispositions if the deferral of the prosecution is terminated and there is a trial on the charge.

(c) The prosecution must be deferred for the period specified in the agreement unless there has been a violation of its terms.

(d) The agreement must be terminated and the prosecution automatically dismissed with prejudice upon expiration and compliance with the terms of the agreement.

(2) A condition of pretrial diversion may be for the court to refer a defendant for evaluation to determine the appropriateness of proceedings pursuant to Title 53, chapter 21.

(3) ~~After~~ *Except as provided in 46-1-1104 and 46-1-1204, after* a charge has been filed, a deferral of prosecution may be entered into only ~~with the approval of the court~~ *after the prosecutor provides notice to the court*.

(4) A prosecution for a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411 may not be deferred."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 68

[HB 248]

AN ACT REVISING THE REQUIREMENTS FOR SOLICITING AND ADVERTISING BIDS FOR CONTRACTS FOR COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 20-15-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-15-104, MCA, is amended to read:

"20-15-104. Pecuniary interest and letting contracts. (1) It is unlawful for any community college district trustee to:

(a) have a pecuniary interest, either directly or indirectly, in the erection of any community college building in the trustee's district;

(b) have a pecuniary interest, either directly or indirectly, in furnishing or repairing a community college building;

(c) be in any manner connected with the furnishing of supplies for the maintenance of the college; or

(d) receive or accept any compensation or reward for services rendered as trustee, except as provided in this section.

(2) Except for the letting of an investment grade energy audit or energy performance contract pursuant to Title 90, chapter 4, part 11, including construction or installation of conservation measures pursuant to an energy performance contract, the board of trustees shall let contracts for building, furnishing, repairing, or other work or supplies for the benefit of the district according to the following rules and procedures:

(a) The board of trustees need not meet requirements relating to advertising or bidding if a proposed contract for building, furnishing, repairing, or other work or supplies is for less than ~~$5,000~~ *$80,000*.

~~(b) Whenever the proposed contract costs are less than $25,000 but more than $5,000, the board of trustees shall procure at least three informal bids, if reasonably available, from contractors licensed in Montana.~~

~~(c)~~*(b)* Whenever the proposed contract costs are more than ~~$25,000~~ *$80,000*, the board of trustees shall solicit formal bids and advertise once each week for at least 2 weeks in a newspaper published in each county in which the area of the district lies, calling for bids to perform the work or furnish the supplies. If advertising is required, the board shall award the contract to the lowest responsible bidder. However, the board of trustees has the right to reject any bids."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 69

[SB 1]

AN ACT ALLOWING THE SECRETARY OF STATE TO COLLECT CERTAIN FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-7-604 AND 82-1-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-604, MCA, is amended to read:

"20-7-604. Licensing textbook dealers. (1) Textbook dealers must be licensed to sell textbooks by the superintendent of public instruction. To obtain a license, a textbook dealer shall first file with the superintendent of public instruction the dealer's written agreement to:

(a) guarantee that textbooks must be supplied to any district at the listed, uniform sales prices in effect for schools, except that the prices may be reduced in accordance with this section;

(b) guarantee that at no time will any textbook sale price in Montana be a larger amount than the sale price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

(c) reduce automatically the listed, uniform sales price to schools whenever reductions of these prices are made anywhere in the United States.

(2) *(a)* Textbook dealers filing the written agreement with the superintendent of public instruction shall also file a surety bond with the secretary of state. The surety bond must run to the state of Montana and be conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating the supply of textbooks to districts. The amount of the surety bond must be set by the superintendent of public instruction and may not be less than $2,000 or more than $10,000. It is the responsibility of the textbook dealer to maintain the surety bond on a current basis.

(b) The secretary of state may charge a fee for the filing of the surety bond required under this section. The fee must be set by rule and deposited in accordance with 2-15-405.

(3) When the textbook dealer has complied with the written agreement and surety bond requirements for licensing, the superintendent of public instruction shall issue a license to the textbook dealer."

Section 2. Section 82-1-104, MCA, is amended to read:

"82-1-104. Indemnification of property owners — restoration of surface. (1) *(a)* Prior to performing seismic activity, a person, firm, or corporation shall file with the secretary of state a surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state in the amount of $10,000 for a single seismic crew or a blanket surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state in the amount of $25,000 for all seismic crews operating within the state for the person, firm, or corporation to indemnify the owners of property within this state for physical damages to their property resulting from any seismic exploration. Partial or complete forfeiture of the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state must be determined by the appropriate court of civil jurisdiction.

(b) The secretary of state may charge a fee for the filing of the surety bond, cash, certificate of deposit, or other instrument required under this section. The fee must be set by rule and deposited in accordance with 2-15-405.

(2) Unless the owner of the surface rights and the person, firm, or corporation conducting seismic activity agree otherwise, it is the obligation of the person, firm, or corporation upon completion of seismic exploration to plug all "shot holes" in the manner specified by the board of oil and gas conservation to contain any water within its native strata by filling the holes with bentonite mud, cement, or other material approved by the board of oil and gas conservation to contain the water. In addition, the holes must be capped in a manner and with a material specified by the board of oil and gas conservation so that the top of the cap is a sufficient depth below the surface of the land to allow cultivation. The portion of the holes above the cap must be filled with native material.

(3) Upon completion of any seismic exploration, the person, firm, or corporation conducting the exploration shall remove all stakes, markers, cables, ropes, wires, and debris or other material used in the exploration and shall also restore the surface around any shot holes as near as practicable to its original condition.

(4) The surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state must remain on file with the secretary of state so long as the exploration is conducted, plus an additional 5 years after the cessation of the exploration activities. The aggregate liability for the exploration activities may not exceed the amount of the surety bond, cash, certificate of

deposit, or other instrument acceptable to the secretary of state. Upon the filing of the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state, the secretary of state shall issue to the person, firm, or corporation a certificate showing that the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state has been filed. The certificate must contain the name of the designated resident agent within the state for service of process for the person, firm, or corporation."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 70

[SB 6]

AN ACT CLARIFYING THAT THE DEPARTMENT OF REVENUE'S UNIFORM DISPUTE REVIEW PROCEDURES PROVIDE THE RIGHT TO REQUEST ALTERNATIVE DISPUTE RESOLUTION METHODS, INCLUDING MEDIATION; AMENDING SECTION 15-1-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-211, MCA, is amended to read:

"15-1-211. Uniform dispute review procedure — notice — appeal. (1) The department shall provide a uniform *dispute* review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 25, or whether the employment relationship was that of an independent contractor. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.

(b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities.

(c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual consent of the parties. If a final department decision is not issued within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

(3) (a) The department shall provide written notice to a person or other entity advising the person or entity of a dispute over matters administered by the department.

(b) The person or other entity shall have the opportunity to resolve the dispute with the department employee who is responsible for the notice, as indicated on the notice.

(c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to the dispute resolution office.

(d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the person responsible for the notice and their right to refer the dispute to the dispute resolution office.

(4) Written notice must be sent to the persons or other entities involved in a dispute with the department indicating that the matter has been referred to the dispute resolution office. The written notice must include:

(a) a summary of the department's position regarding the dispute;

(b) an explanation of the right to the resolution of the dispute with a clear description of all procedures and options available;

(c) the right to obtain a final department decision within 180 days of the date that the dispute was referred to the dispute resolution office;

(d) the right to appeal should the department fail to meet the required deadline for issuing a final department decision; and

(e) the right to ~~have the department consider~~ *request* alternative dispute resolution methods, including mediation.

(5) The department shall:

(a) develop guidelines that must be followed by employees of the department in dispute resolution matters;

(b) develop policies concerning the authority of an employee to resolve disputes; and

(c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute resolution office.

(6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with a person or other entity relating to a matter administered by the department.

(ii) The director or the director's designee has no authority to bind a future legislature through the terms of an agreement.

(b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 71

[SB 16]

AN ACT REVISING HOW THE COMMISSIONER OF POLITICAL PRACTICES IS APPOINTED AND REVISING QUALIFICATIONS; AMENDING SECTIONS 13-37-102, 13-37-104, AND 13-37-107, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-102, MCA, is amended to read:

"13-37-102. Creation of office — *nomination* — *appointment* — removal. (1) There is a commissioner of political practices who is appointed by the governor, subject to confirmation by a majority of the senate.

(2) (a) A four-member ~~selection~~ *nomination* committee composed of the speaker of the house, the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the ~~selection~~ *nomination* committee shall agree ~~upon~~ *on* each nomination.

(b) The governor shall appoint the commissioner from the list of nominees submitted by the nomination committee. However, if the nomination committee fails to submit names agreed to by the majority of the nomination committee members, the governor may appoint anyone who meets the qualifications set forth in 13-37-107.

~~(2)~~*(3)* The individual selected to serve as commissioner may be removed by the governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review."

Section 2. Section 13-37-104, MCA, is amended to read:

"13-37-104. Vacancy. (1) If for any reason a vacancy occurs in the position of commissioner, a successor must be appointed ~~within 30 days~~ as provided in 13-37-102~~(1)~~ *within 30 days of the vacancy* to serve out the unexpired term. ~~Each nomination~~ *The governor's appointee* must be confirmed by the senate, but ~~a nomination~~ *an appointment* made while the senate is not in session is effective as an appointment until the end of the next session.

(2) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served 3 years or more of an unexpired term is not eligible for reappointment.

(3) An individual who is selected to serve out the unexpired term of a preceding commissioner and who has served less than 3 years *of an unexpired term* may be reappointed for a 6-year term as provided in 13-37-102~~(1)~~."

Section 3. Section 13-37-107, MCA, is amended to read:

"13-37-107. Commissioner of political practices — qualifications. The individual appointed to serve as commissioner:

(1) must be a citizen of the United States and a resident of Montana as provided in 13-1-112; ~~and~~

(2) on the date of appointment, must be registered to vote in Montana*;*

(3) in the 2 years immediately preceding the date of the appointment, may not have:

(a) served as a fundraiser for a candidate for public office;

(b) served as an officer in a political party or for a political committee; or

(c) participated in the management or conduct of a campaign by a candidate for public office;

(4) must possess the following knowledge, skills, and abilities:

(a) a confirmable track record of highly ethical professional behavior;

(b) the demonstrable ability to be firm, fair, and unbiased in carrying out professional responsibilities;

(c) the ability to communicate effectively orally and in writing;

(d) the ability to interpret statutes, legal opinions, and regulations;

(e) the ability to supervise, organize, and motivate employees; and

(f) knowledge of the standards of evidence and due process rights that are applicable to judicial and quasi-judicial proceedings."

Approved February 27, 2015

CHAPTER NO. 72

[SB 28]

AN ACT ELIMINATING CONDITIONS ON STATE REVOLVING LOAN FUND PROGRAMS NO LONGER REQUIRED BY FEDERAL LAW; AMENDING SECTIONS 75-5-1113 AND 75-6-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-1113, MCA, is amended to read:

"75-5-1113. Conditions on loans. (1) Upon approval of a project by the department, the department of natural resources and conservation may lend amounts on deposit in the revolving fund to a municipality or private person to pay part or all of the cost of a project or to buy or refinance an outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the municipality or private person complying with the following conditions:

(a) meeting requirements of financial capability set by the department of natural resources and conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay the loan, including the establishment and maintenance by the municipality of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the municipality's obligation;

(b) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than the term of the loan;

(c) agreeing to maintain proper financial records in accordance with generally accepted accounting standards and agreeing that all records are subject to audit;

(d) meeting the requirements listed in the federal act for projects constructed with funds directly made available by federal capitalization grants;

(e) providing legal assurance that all necessary property titles, easements, and rights-of-way have been obtained to construct, operate, and maintain the project;

(f) submitting an engineering report evaluating the proposed project, including information demonstrating its cost-effectiveness and environmental information necessary for the department and the department of natural

resources and conservation to fulfill their responsibilities under the Montana Environmental Policy Act and rules adopted to implement that act;

(g) complying with plan and specification requirements and other requirements established by the department; and

(h) providing for proper construction inspection and project management.

(2) ~~(a)~~ Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest paid in annual or more frequent installments~~, the first of which must be received not more than 1 year after the completion date of the project and, except as provided in subsection (2)(b), the last of which must be received not more than 20 years after the completion date~~.

~~(b) If the applicant is a disadvantaged community, as defined by rule, that has qualified for and applied for a loan subsidy, the department may determine that the last installment must be received not more than 30 years after the completion date of the project if the period of the loan does not exceed the expected design life of the project being financed.~~

(3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the interest payments on the loan and on other outstanding loans will be sufficient, if paid timely and in full, with other available funds in the revolving fund, including investment income, to enable the state to pay the principal of and interest on the bonds issued pursuant to 75-5-1121.

(b) The interest rate must be determined as of the date the loan is authorized by the department of natural resources and conservation.

(c) The rate may include any additional rate that the department of natural resources and conservation considers reasonable or necessary to provide a reserve for the repayment of the loans. The additional rate may be fixed or variable or may be calculated according to a formula, and it may differ from the rate established for any other loan. Once the reserve has been established at a level considered by the department to be reasonable and prudent for the loans outstanding, the department may use excess reserve payments to make grants to aid in the feasibility of projects.

(4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the municipality or private person, in a form prescribed or approved by the department of natural resources and conservation, except that the bond, note, or other evidence must include provisions required by the federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is not required to be identical for all loans. The department of natural resources and conservation may require that loans to private persons be further secured by a mortgage and other security interests in the project that is being financed or other forms of additional security as considered necessary, including personal guarantees and letters of credit.

(5) As a condition to making a loan, the department of natural resources and conservation, with the concurrence of the department, may impose a reasonable administrative fee that may be paid from the proceeds of the loan or other available funds of the municipality or private person. Administrative fees may be deposited:

(a) in a special administrative costs account that the department of natural resources and conservation may create for that purpose outside the revolving fund provided for in 75-5-1106; or

(b) in the administration account. Money deposited in the administration account established in 75-5-1106 must be used for the payment of administrative costs of the program. Money deposited in the special

administration costs account must be used for the payment of administrative costs of the program unless not required for that purpose, in which case the money may be transferred to other funds and accounts in the program."

Section 2. Section 75-6-224, MCA, is amended to read:

"75-6-224. Loan conditions. (1) Upon approval of an application by the department, the department of natural resources and conservation may lend amounts on deposit in the revolving fund to a public water system to pay part or all of the cost of a project. The loan is subject to the applicant complying with the following conditions:

(a) meeting requirements of financial capability set by the department of natural resources and conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay the loan, including the establishment of a dedicated source of revenue and the establishment and maintenance by the applicant of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the public water system or the applicant's financial authority;

(b) in the case of a system owned by a private person, in addition to establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing, as required by the department of natural resources and conservation, credit enhancements, a pledge of collateral, or other types of security, such as a corporate or personal guarantee;

(c) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than the term of the loan;

(d) agreeing to maintain proper financial records in accordance with generally accepted accounting standards and agreeing that all records are subject to audit;

(e) meeting the requirements listed in the federal act for projects constructed with funds directly made available by federal capitalization grants;

(f) providing legal assurance that all necessary property titles, easements, and rights-of-way have been obtained to construct, operate, and maintain the project;

(g) submitting an engineering report evaluating the proposed project, including information demonstrating its cost-effectiveness and environmental information necessary for the department and the department of natural resources and conservation to fulfill their responsibilities under the Montana Environmental Policy Act and rules adopted to implement that act;

(h) complying with plan, specification, and other requirements for public water systems established by the department;

(i) providing for proper construction inspection and project management; and

(j) meeting requirements of financial, managerial, and technical capability to maintain compliance with the federal act.

(2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest paid in annual or more frequent installments~~, the first of which must be received not more than 1 year after the completion date of the project and the last of which must be received not more than 20 years after the completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan subsidy, the department may determine that the last installment must be received not more than 30 years after the completion~~

~~date, provided that the period of the loan does not exceed the expected design life of the project~~.

(3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with other available funds in the revolving fund, including investment income, to enable the state to pay the principal of and interest on the bonds issued pursuant to 75-6-225.

(b) The interest rate may include any additional rate that the department of natural resources and conservation considers reasonable or necessary to provide a reserve for the repayment of the loans. The additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate established for any other loan. Once the reserve has been established at a level considered by the department to be reasonable and prudent for the amount of the loans outstanding, the department may use excess reserve payments to make grants to aid in the feasibility of projects.

(4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the borrower, in a form prescribed or approved by the department of natural resources and conservation, except that the bond, note, or other evidence must include provisions required by the federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is not required to be identical for all loans.

(5) As a condition to making a loan, the department of natural resources and conservation, with the concurrence of the department, may impose a reasonable administrative fee that may be paid from the proceeds of the loan or other available funds of the municipality or private person. Administrative fees may be deposited:

(a) in a special administrative costs account that the department of natural resources and conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

(b) in the administrative account provided for in 75-6-211. In determining into which account the administrative fees are deposited, the department shall take into consideration the needs and requirements of the programs. Money deposited in the special administrative costs account or the administration account must be used for the payment of administrative costs of the program."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 73

[SB 29]

AN ACT REMOVING THE LIMIT ON TUITION WAIVERS FOR SELECTED AND APPROVED NONRESIDENT STUDENTS IN THE MONTANA UNIVERSITY SYSTEM; AMENDING SECTION 20-25-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-25-421, MCA, is amended to read:

"20-25-421. Charges for tuition — waivers. ~~(1)~~*(1)* The regents may prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

~~(2) The regents may:~~

~~(a) waive nonresident tuition for selected and approved nonresident students, not to exceed at any unit 2% of the full-time equivalent enrollment at that unit during the preceding year; however, when necessary, tuition may be waived in excess of 2% of unit enrollment for nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;~~

~~(b) waive resident tuition for students at least 62 years of age;~~

~~(c) waive tuition and fees for:~~

~~(i) persons who have one-fourth Indian blood or more or are enrolled members of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana and who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;~~

~~(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;~~

~~(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;~~

~~(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;~~

~~(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or~~

~~(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state active duty;~~

~~(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person's choice and is the surviving spouse or child of any of the following who were killed in the course and scope of employment:~~

~~(i) a paid or volunteer member of a municipal or rural fire department;~~

~~(ii) a law enforcement officer as defined in 7-32-201; or~~

~~(iii) a full-time highway patrol officer.~~

~~(3) If funds are available after the waivers provided for in subsection (2), the regents may waive tuition for up to 5,000 credits each academic year.~~

(2) The regents may utilize waivers in tuition and fees to aid in the recruitment of students to units of the university system and to promote the policy of assisting the categories of students specified in this subsection. The regents may:

(a) waive or discount nonresident tuition for selected and approved nonresident students, including nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;

(b) waive resident tuition for students at least 62 years of age;

(c) waive tuition and fees for:

(i) persons who have one-fourth Indian blood or more or are enrolled members of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana and who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;

(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;

(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;

(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or

(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state active duty;

(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person's choice and is the surviving spouse or child of any of the following who were killed in the course and scope of employment:

(i) a paid or volunteer member of a municipal or rural fire department;

(ii) a law enforcement officer as defined in 7-32-201; or

(iii) a full-time highway patrol officer."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 74

[SB 32]

AN ACT REVISING LAWS RELATED TO THE USE OF PREMIUMS IN STATE BOND SALES; ALLOWING PREMIUMS PAID TO BE USED FOR DEBT SERVICE PAYMENT OR TO PAY PROJECT COSTS; AMENDING SECTIONS 17-5-710, 17-5-803, 75-5-1121, AND 75-6-225, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-5-710, MCA, is amended to read:

"17-5-710. Form — principal and interest — fiscal agent — deposit of proceeds. (1) ~~Each~~ *Subject to the limitations contained in this part, each* series of coal severance tax bonds must be issued by the board of examiners at public or private sale~~, in such~~. *The bonds may be issued in the* denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for ~~the~~ conversion or exchange, bearing interest at ~~such~~ *a* rate or rates, maturing at ~~such~~ times not exceeding 40 years from date of issue, subject to redemption at ~~such~~ earlier times and prices and ~~upon such~~ *on* notice, and payable at the office of ~~such~~ *the* fiscal agency of the state as the board

of examiners ~~shall determine, subject to the limitations contained in this part~~ *determines*.

(2) In all other respects the board of examiners is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment.

(3) Coal severance tax bonds and any interest coupons appurtenant ~~thereto shall~~ *to the bonds must* be signed by the members of the board of examiners, and the bonds ~~shall~~ *must* be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all ~~such~~ bonds issued and sold.

(4) The board of examiners ~~is authorized to~~ *may* employ a fiscal agent to assist in the performance of its duties ~~hereunder~~.

(5) All proceeds of a state of Montana coal severance tax bonds issue ~~shall~~ *must* be deposited in a capital projects fund or a state special revenue account established for that bond issue, except that*:*

(a) ~~any premiums~~ *bond proceeds used to pay interest on the bonds* and accrued interest received ~~shall~~ *must* be deposited in a debt service fund established for that bond issue*;*

(b) any premiums received may be deposited in a debt service fund established for that bond issue; and

(c) bond proceeds used to pay the cost of issuance may be deposited in a separate account within the state special revenue account."

Section 2. Section 17-5-803, MCA, is amended to read:

"17-5-803. Form — principal and interest — fiscal agent — bond registrar and transfer agent — deposit of proceeds. (1) Subject to the limitations contained in this part and in the bond act and in the furtherance of each bond act, bonds may be issued by the board upon request of the department. The bonds may be issued in the denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with provisions for conversion or exchange, and*,* for the issuance of temporary bonds*,* bearing interest at a rate or rates, maturing at times not exceeding 30 years from date of issue, subject to redemption at earlier times and prices and on notice, and payable at the office of the fiscal agency of the state as the board determines.

(2) In all other respects, the board is authorized to prescribe the form and terms of the bonds and do whatever is lawful and necessary for their issuance and payment. Action taken by the board under this part must be by a majority vote of its members. The state treasurer shall keep a record of all bonds issued and sold.

(3) The board is authorized to employ a fiscal agent and a bond registrar and transfer agent to assist in the performance of its duties under this part.

(4) The board, in its discretion, is authorized to pay all costs of issuance of bonds, including without limitation rating agency fees, printing costs, legal fees, bank or trust company fees, costs to employ persons or firms to assist in the sale of the bonds, line of credit fees and charges, and all other amounts related to the costs of issuing the bonds from amounts available for these purposes in the general fund or from the proceeds of the bonds.

(5) Unless otherwise provided in statute authorizing a bond, all proceeds of bonds and notes issued under this part to pay the costs of a project must be deposited in the capital projects account or in a separate general obligation bond

or note account created in the state special revenue fund established in 17-2-102, except that*:*

(a) ~~any premiums, unless used to pay the costs of issuance,~~ *bond proceeds used to pay interest on the bonds* and accrued interest received must be deposited in the debt service account*;*

(b) any premiums received may be deposited in the debt service account; and

(c) bond proceeds used to pay the costs of issuance may be deposited in a separate account within the state special revenue account.

(6) If applicable, the board shall specify whether the bonds are tax credit bonds as provided in 17-5-117."

Section 3. Section 75-5-1121, MCA, is amended to read:

"75-5-1121. Authorization of bonds — allocation of proceeds. (1) Upon request of the department of natural resources and conservation and upon certification by the department that the state has entered into a capitalization grant agreement or other agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants have been made to the state for the program, the board of examiners is authorized to issue and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) *(a) Except as otherwise provided in this subsection (2),* ~~The~~ *the* proceeds of the bonds~~, other than any premium and accrued interest received or amounts to be used to pay interest on the bonds or the costs of issuing the bonds,~~ are allocated to the state allocation account or the administration account of the revolving fund, as provided in 75-5-1106.

(b) Any ~~premium and~~ accrued interest and bond proceeds to be used to pay interest must be deposited in the debt service account *of the revolving fund*.

(c) Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds.

(d) Any premium received must be deposited in the state allocation account, the debt service account, or the cost of issuance account as directed by the board of examiners in the resolution or trust indenture regarding the bonds.

(e) For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account constitute a capital projects account. The proceeds must be available to the department and the department of natural resources and conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of natural resources and conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the interest component of the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

(4) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having the powers of a trustee inside or outside the state.

(a) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(b) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(ii) permit representatives of the state treasurer, department, or department of natural resources and conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(c) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state."

Section 4. Section 75-6-225, MCA, is amended to read:

"75-6-225. Authorization of bonds — allocation of proceeds. (1) The board of examiners is authorized, upon request of the department of natural resources and conservation, to issue and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) *(a) Except as otherwise provided in this subsection (2),* ~~The~~ *the* proceeds of the bonds~~, other than any premium and accrued interest received, the amounts to be used to pay interest on the bonds, or the costs of issuing the bonds,~~ are allocated to the state allocation account or the administration account of the revolving fund, as provided in 75-6-211.

(b) Any ~~premium and~~ accrued interest and bond proceeds to be used to pay interest must be deposited in the debt service account of the revolving fund.

(c) Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds.

(d) Any premium received must be deposited in the state allocation account, the debt service account, or the cost of issuance account as directed by the board of examiners in the resolution or trust indenture regarding the bonds.

(e) For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account constitute a capital projects account. The proceeds must be available to the department and the department of natural resources and conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of natural resources and conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the revolving fund and the interest component of the loan repayments credited to the revolving fund as security for the bonds.

(4) (a) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee.

The trustee may be a trust company or bank having the power of a trustee inside or outside the state.

(b) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(c) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, to provide for the rights of the bondholders, and to ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(ii) permit representatives of the state treasurer, department, or department of natural resources and conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(d) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state."

Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 75

[SB 50]

AN ACT REVISING OFFENSES RELATED TO THE VISUAL OBSERVATION OR RECORDATION OF A PERSON WITHOUT THE PERSON'S KNOWLEDGE; AMENDING SECTION 45-5-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-223, MCA, is amended to read:

"45-5-223. Surreptitious visual observation or recordation — place of residence — public ~~establishment~~ *place* — exceptions. (1) A person commits the offense of surreptitious visual observation or recordation in a place of residence if ~~a~~ *the* person purposely or knowingly hides, waits, or otherwise loiters *in person or by means of a remote electronic device within or* in the vicinity of a private dwelling house, apartment, or other place of residence for the purpose of:

(a) watching, gazing at, or looking upon any occupant in the residence ~~in a surreptitious manner~~ *in a surreptitious manner without the occupant's knowledge*; or

(b) by means of an electronic ~~or mechanical recording~~ device, ~~surreptitiously~~ *surreptitiously observing or* recording the visual image of any occupant in the residence *without the occupant's knowledge*.

(2) ~~An owner, manager, or employee of a business or a landlord who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, tenant, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation in a public establishment.~~ *A person commits the offense of surreptitious visual observation or recordation in public if the person purposely or knowingly observes or records a visual image of the sexual or intimate parts of another person in a public place without the other person's knowledge when the victim has a reasonable expectation of privacy.*

(3) Subsections (1) and (2) do not apply to a law enforcement officer, an agent or employee of an insurer, or a private investigator licensed pursuant to 37-60-301 or to any person engaged in fraud detection, prevention, or prosecution pursuant to 2-15-2015 or 39-71-211 while the officer, agent, employee, or private investigator is acting in the course and scope of employment for legitimate investigative purposes.

(4) ~~(a)~~ A person convicted of ~~the offense of surreptitious visual observation or recordation in a place of residence~~ *an offense under subsection (1) or (2)* shall be fined an amount not to exceed $500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed $1,000 or be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed $10,000 or be incarcerated for a term not to exceed 5 years, or both.

~~(b) A person convicted of the offense of surreptitious visual recordation in a public establishment shall be fined an amount not to exceed $1,000 or incarcerated for a term not to exceed 6 months, or both, if the victim was an adult and shall be fined an amount not to exceed $5,000 or incarcerated for a term not to exceed 2 years, or both, if the victim was a minor.~~"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 76

[SB 51]

AN ACT ALLOWING THE DEPARTMENT OF REVENUE TO SHARE INFORMATION RELATED TO DEBT OFFSET OR COLLECTION WITH THE DEPARTMENT OF COMMERCE; AMENDING SECTIONS 15-30-2618, 15-31-511, AND 90-1-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.

(5) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding $500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(7) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(8) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply

the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(9) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.*; and*

(i) to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans."

Section 2. Section 15-31-511, MCA, is amended to read:

"15-31-511. Confidentiality of tax records. (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(f) the disclosure of information to the commissioner of insurance's office that is necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1); ~~and~~

(b) provide corporate income tax and alternative corporate income tax information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106

or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1)*; and*

(c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(5) A person convicted of violating this section shall be fined not to exceed $500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction."

Section 3. Section 90-1-113, MCA, is amended to read:

"90-1-113. Cooperation of state agencies. *(1)* State agencies that have economic development responsibilities shall cooperate with the office of economic development and provide information, technical expertise, and other assistance when requested by the office of economic development.

(2) On written request to the director of revenue or a designee of the director, the department of revenue shall furnish to the department of commerce information about debt assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The written request must include an authorized release form signed by the taxpayer. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 77

[SB 63]

AN ACT CLARIFYING THE LEGISLATIVE AUDIT COMMITTEE'S COST-EFFECTIVENESS PRIVATIZATION REVIEW PROCESS TO INCLUDE INFORMATION PROVIDED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING; AMENDING SECTION 2-8-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-8-304, MCA, is amended to read:

"2-8-304. Review of privatized programs. (1) If during audits of state agencies, the legislative auditor identifies programs being conducted by an agency under contract that may be administered more cost-effectively directly by the agency or identifies services performed by an agency that may be performed more cost-effectively by the private sector, the legislative auditor shall submit this information to the legislative audit committee.

(2) Members of the public, elected bargaining agents or employee representatives, elected officials, legislators, and agency directors may submit to the legislative audit committee a request to review programs being conducted under contract by an agency that may be administered more cost-effectively directly by the agency.

(3) The office of budget and program planning shall submit to the legislative audit committee, by July 1 of each odd-numbered year:

(a) a list of all programs accounted for in an enterprise fund or an internal service fund; and

(b) a request for privatization review under subsection (1) of at least two of the programs identified in subsection (3)(a), including any available information and criteria required under 2-8-303.

(4) The legislative audit committee shall review the information and requests provided under subsections (1) ~~and (2)~~ *through (3)* and may direct the legislative auditor to conduct a review of any contracted program or program administered directly by the agency, or both. The review must include a report to the legislative audit committee that includes the information required in a privatization plan under 2-8-303.

(5) The report required by subsection (4) must be provided to the legislative audit committee and released to the public. Not less than 30 days after the release of the report, the legislative audit committee shall conduct a public hearing on the report at which public comments and testimony must be received. Upon completion of the hearing on the report, the legislative audit committee may make recommendations that it believes appropriate concerning the program."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 78

[SB 64]

AN ACT REVISING LAWS GOVERNING THE MONTANA HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; REMOVING CERTAIN REFERENCES TO THE COMMISSION ACQUIRING AND PURCHASING PROPERTY; REMOVING THE REQUIREMENT THAT PROPERTIES BECOME SELF-SUPPORTING; REVISING HOW COMMISSION MEMBERS MAY BE APPOINTED; REMOVING THE REQUIREMENT THAT CERTAIN FUNDS BE DEPOSITED IN THE CULTURAL AND AESTHETIC TRUST; REMOVING LANGUAGE EXPRESSING THE INTENT OF A PREVIOUS LEGISLATURE THAT NO GENERAL FUND MONEY BE USED TO FUND OPERATIONS; REMOVING THE REQUIREMENT THAT CERTAIN SALE PROCEEDS BE PLACED IN A TRUST FUND; AND AMENDING SECTIONS 22-3-1001, 22-3-1002, 22-3-1003, AND 22-3-1004, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 22-3-1001, MCA, is amended to read:

"22-3-1001. Purpose. The purpose of this part is to ~~acquire and~~ manage, on behalf of the state, properties that possess outstanding historical value, display exceptional qualities worth preserving, *and* are genuinely representative of the state's culture and history~~, and demonstrate the ability to become economically self-supporting~~. The Montana heritage preservation and development commission shall achieve this purpose by ~~purchasing fee title interests in real and personal property and by~~ managing ~~those~~ *the* properties *for which it is responsible* in a manner that protects the properties and encourages economic ~~independence~~ *stability*."

Section 2. Section 22-3-1002, MCA, is amended to read:

"22-3-1002. Montana heritage preservation and development commission. (1) There is a Montana heritage preservation and development commission. The commission is attached to the department of commerce for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim committee.

(2) *(a)* The commission consists of 14 members. The members shall broadly represent the state. Nine members must be appointed by the governor, one member must be appointed by the president of the senate, and one member must be appointed by the speaker of the house.

(b) If the president of the senate and the speaker of the house do not appoint the members for which they are responsible within 6 months of a vacancy having occurred in those positions, the members must be appointed by the governor.

(c) The director of the Montana historical society, the director of the department of fish, wildlife, and parks, and the director of the department of commerce shall serve as members. Of the members appointed by the governor *under subsection (2)(a)*:

~~(a)~~*(i)* one member must have extensive experience in managing facilities that cater to the needs of tourists;

~~(b)~~*(ii)* one member must have experience in community planning;

~~(c)~~*(iii)* one member must have experience in historic preservation;

~~(d)~~*(iv)* two members must have broad experience in business;

~~(e)~~*(v)* one member must be a member of the tourism advisory council established in 2-15-1816;

~~(f)~~*(vi)* one member must be a Montana historian; and

~~(g)~~*(vii)* two members must be from the public at large.

(3) Except for the initial appointments, members appointed by the governor *under subsection (2)(a)* shall serve 3-year terms. ~~Legislative appointees~~ *Members appointed by the president of the senate and the speaker of the house or by the governor under subsection (2)(b)* shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an appointment for the unexpired portion of the term.

(4) (a) The commission may employ:

(i) an executive director who has general responsibility for the selection and management of commission staff, developing recommendations for the purchase of property, and overseeing the management of acquired property;

(ii) a curator who is responsible for the display and preservation of the acquired property; and

(iii) other staff that the commission and the executive director determine are necessary to manage and operate commission properties.

(b) The commission shall prescribe the duties and annual salary of the executive director, the curator, and other commission staff."

Section 3. Section 22-3-1003, MCA, is amended to read:

"22-3-1003. Powers of commission — contracts — rules. (1) (a) The Montana heritage preservation and development commission may contract with private organizations to assist in carrying out the purpose of 22-3-1001. The term of a contract may not exceed 20 years.

(b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state procurement laws.

(c) Architectural and engineering review and approval do not apply to the historic renovation projects or projects at historic sites unless stated in specific state appropriations for construction permitted under the commission's jurisdiction.

(d) The contracts must provide for the payment of prevailing wages.

(e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

(f) Management activities must be undertaken to encourage the ~~profitable~~ operation of properties *in a manner that results in economic stability*.

(g) Contracts may include the lease of property managed by the commission. Provisions for the renewal of a contract must be contained in the contract.

(2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of a building, as defined in 18-2-101, in excess of $300,000 without the consent of the legislature. Building construction must be in conformity with applicable guidelines developed by the national park service of the U.S. department of the interior, the Montana historical society, and the Montana department of fish, wildlife, and parks. Funding for these projects must pass through directly to the commission.

(b) The commission may contract for the preservation, stabilization, or maintenance of existing structures or buildings for an amount that exceeds $300,000 without legislative consent if the commission determines that waiting for legislative consent would cause unnecessary damage to the structures or buildings or would result in a significant increase in cost to conduct those activities in the future.

(3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a portion of any profit be reinvested in the property and that a portion be used to pay the administrative costs of the property and the commission.

(b) ~~(i) Until the balance in the cultural and aesthetic trust reaches $7,750,000, the commission shall deposit the portion of profits not used for administrative costs and restoration of the properties in the cultural and aesthetic trust.~~

~~(ii) Once the balance in the cultural and aesthetic trust reaches $7,750,000, the~~ *The* commission shall deposit the portion of profits not used for administrative costs and restoration of the properties in the general fund.

~~(c) It is the intent of the 58th legislature that no general fund money be provided for the operations and maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.~~

(4) The commission may solicit funds from other sources, including the federal government, for the ~~purchase,~~ management~~,~~ and operation of properties.

(5) (a) The commission may use volunteers to further the purposes of this part.

(b) The commission and volunteers stand in the relationship of employer and employee for purposes of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with workers' compensation

coverage, as provided in Title 39, chapter 71, during the course of the volunteer's assistance.

(6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including but not limited to their expenditures for transportation, food, and lodging.

(7) The commission shall establish a subcommittee composed of an equal number of members of the Montana historical society board of trustees and commission members to review and recommend the sale of personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may be presented to the commission only if the recommendation is supported by a majority of the members of the subcommittee.

(8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and personal property. With respect to each acquisition or sale, the policy must give consideration to:

(a) whether the property represents the state's culture and history;

(b) whether the property can become ~~self-supporting~~ *economically stable*;

(c) whether the property can contribute to the economic and social enrichment of the state;

(d) whether the property lends itself to programs to interpret Montana history;

(e) whether the acquisition or sale will create significant social and economic impacts to affected local governments and the state;

(f) whether the sale is supported by the director of the Montana historical society;

(g) whether the commission should include any preservation covenants in a proposed sale agreement for real property;

(h) whether the commission should incorporate any design review ordinances established by Virginia City into a proposed sale agreement for real property; and

(i) other matters that the commission considers necessary or appropriate.

(9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed in the account established in 22-3-1004.

(10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the board of land commissioners.

(11) The commission, working with the board of investments, may establish trust funds to benefit historic properties. Interest from any trust fund established under this subsection must be used to preserve and manage assets owned by the commission. ~~Funds from the sale of personal property from the Bovey assets must be placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining personal property.~~

(12) Prior to the convening of each regular session, the commission shall report to the governor and the legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the acquisition or sale of any assets."

Section 4. Section 22-3-1004, MCA, is amended to read:

"22-3-1004. Montana heritage preservation and development account. (1) (a) There is a Montana heritage preservation and development account in the state special revenue fund and in the federal special revenue fund.

(b) The Montana heritage preservation and development commission shall deposit any federal money that the commission obtains into the appropriate account provided for in this section.

(2) Money deposited in the accounts must be used for:

~~(a) the purchase of properties in Virginia City and Nevada City;~~

~~(b)~~*(a)* restoration, maintenance, and operation of historic properties in Virginia City and Nevada City; and

~~(c)~~*(b)* ~~purchasing,~~ restoring~~,~~ and maintaining historically significant properties in Montana that are in need of preservation.

(3) The accounts are statutorily appropriated, as provided in 17-7-502, to the commission to be used as provided in this section.

(4) Unless otherwise prohibited by law or agreement, all interest earned on money in the accounts must be deposited in the state special revenue fund to the credit of the commission."

Approved February 27, 2015

CHAPTER NO. 79

[SB 67]

AN ACT GENERALLY REVISING LAWS RELATED TO MISSING PERSONS; AMENDING THE DEFINITION OF "MISSING CHILD" TO INCLUDE PERSONS UNDER 21 YEARS OF AGE; REQUIRING LAW ENFORCEMENT TO INFORM ALL ON-DUTY OFFICERS AND TO ENTER THE MISSING CHILD REPORT INTO THE NATIONAL CRIME INFORMATION CENTER SYSTEM WITHIN 2 HOURS OF THE REPORT; AND AMENDING SECTIONS 44-2-502 AND 44-2-505, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-2-502, MCA, is amended to read:

"44-2-502. Definitions. As used in this part, the following definitions apply:

(1) "Missing child" means any person who has been reported as missing to a law enforcement authority and:

(a) who is under ~~18~~ *21* years of age;

(b) whose temporary or permanent residence is in Montana or is believed to be in Montana; and

(c) whose location has not been determined.

(2) "Missing child report" ~~is~~ *means* a report prepared on a form designed by the department of justice for use by private citizens and law enforcement authorities to report information about missing children to the missing children information program provided for in 44-2-503."

Section 2. Section 44-2-505, MCA, is amended to read:

"44-2-505. Duties of law enforcement authority. Whenever a parent, guardian, or legal custodian of a child files a report with a law enforcement

authority that the child is missing, the law enforcement authority shall *within 2 hours of the report*:

(1) ~~immediately~~ inform all on-duty law enforcement officers of the existence of the missing child report;

(2) communicate the report to all other law enforcement authorities having jurisdiction in the county; and

(3) ~~immediately~~ enter the missing child report into the national crime information center computer system."

Approved February 27, 2015

CHAPTER NO. 80

[SB 76]

AN ACT AUTHORIZING ADMINISTRATIVE SUSPENSION BY A LICENSING BOARD OR THE DEPARTMENT OF LABOR AND INDUSTRY OF A PROFESSIONAL OR OCCUPATIONAL LICENSE IN ROUTINE MATTERS AS AN ALTERNATIVE TO DISCIPLINARY PROCEEDINGS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-131, 37-1-141, 37-1-306, 37-1-309, 37-1-313, 37-1-403, 37-1-407, AND 37-51-204, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Authority to administratively suspend license. (1) A board, or the department if authorized by the board, or the department for programs without a board may administratively suspend a license when:

(a) an audit of continuing education, certification, or other qualifications necessary for continued licensure demonstrates that the licensee is noncompliant with requirements established by the board or by the department for a program;

(b) the licensee fails to respond to a board or department audit as provided in subsection (1)(a);

(c) the department receives notice of insufficient funds in the account used by the licensee to pay for an administrative fee or a board fee or fine;

(d) the department has reasonable grounds to believe the licensee did not possess the qualifications for initial issuance of the license; or

(e) a licensee fails to comply with the terms of a final order imposed pursuant to 37-1-312 or 37-1-405.

(2) Upon identifying one or more of the deficiencies listed in subsection (1), the department shall inform the licensee in writing and provide the licensee 60 days from the date of the correspondence to cure the deficiency.

(3) If the licensee fails to cure the deficiency as provided in subsection (2), a board, or the department if authorized by the board, or the department for programs without a board may administratively suspend the license without additional notice or opportunity for hearing.

(4) (a) The administrative suspension remains in effect until:

(i) a board, or the department if authorized by the board, or the department for programs without a board determines the licensee has cured the deficiency; or

(ii) the license terminates as provided in 37-1-141.

(b) An administratively suspended license that is not renewed lapses, expires, or terminates as provided in 37-1-141.

(5) A licensee may not use a protected title or practice the licensed profession or occupation while the license is administratively suspended.

(6) To reinstate the administratively suspended license, a licensee must pay an administrative fee established by the department by rule and submit information necessary to cure the deficiencies as determined in the discretion of the department.

(7) Instead of an administrative suspension, the department may refer the deficiencies demonstrated in subsection (1) for disciplinary proceedings as provided in 37-1-309 or 37-1-403, as applicable. A board or the department may not proceed against a licensee for the same act or failure to act under both an administrative suspension as provided in this section and a disciplinary proceeding as provided in 37-1-309 or 37-1-403.

Section 2. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards — quorum required. (1) A quorum of each board within the department shall:

(a) (i) set and enforce standards and adopt and enforce rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within the board's jurisdiction; and

(ii) apply the standards and rules referred to in subsection (1)(a)(i) in a manner that does not discriminate against any person licensed by the board with regard to how the standards and rules are applied to other persons licensed by the board and that does not restrain trade or competition unless necessary to protect public health and safety;

(b) *except as provided in [section 1],* sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within the board's jurisdiction. The hearings must be conducted by a hearings examiner when required under 37-1-121.

(c) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (1)(b), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71;

(d) take disciplinary action against the license of a person in a medical assistance program under chapter 3, 4, 7, or 8 if, in the period under contract, the licensee has on three separate occasions returned to the use of a prohibited or proscribed substance. The requirements of this subsection (1)(d) may not be construed as affecting the rights of an employer to evaluate, discipline, or discharge an employee.

(e) pay to the department the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(f) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(2) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(3) A board that requires continuing education or continued state, regional, or national certification for licensees shall require licensees reactivating an expired license to submit proof of meeting the requirements of this subsection for the renewal cycle.

(4) The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination; *and*

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations~~; and~~

~~(d) require continuing education for licensure, as provided in 37-1-306, or require continued state, regional, or national certification for licensure. Except as provided in subsection (3), if the board or department requires continuing education or continued state, regional, or national certification for continued licensure, the board or department may not audit or require proof of continuing education or continued state, regional, or national certification requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits after the lapsed date of up to 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement~~.

(5) A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board.

(6) A board shall adopt rules governing the provision of public notice as required by 37-1-311."

Section 3. Section 37-1-141, MCA, is amended to read:

"37-1-141. License renewal — lapse — expiration — termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification and continuing education requirements *as provided by 37-1-306 or [section 5]*, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, an occupational or professional license that is not renewed within 2 years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138."

Section 4. Section 37-1-306, MCA, is amended to read:

"37-1-306. Continuing education — *certification — other qualifications for continued licensure — audit.* *(1)* A board ~~or, for programs without a board, the department~~ may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education *or continued state, regional, or national certification for licensure*.

(2) A board that requires continuing education or state, regional, or national certification may not audit or require proof of continuing education or certification as a precondition for license renewal. However, a licensee who reactivates a license after the license has expired, as provided in 37-1-141, is subject to a mandatory continuing education audit.

(3) After the lapsed date provided for in 37-1-141, the board or department may conduct a random audit of up to 50% of all licensees who have renewed their licenses to determine compliance with board or program continuing education requirements.

(4) The board or department may audit licensees for compliance with state, regional, or national certification or other board or department requirements.

(5) The board or department shall provide a licensee not in compliance with continuing education or certification requirements with an opportunity to cure the noncompliance as provided in [section 1]."

Section 5. Continuing education — certification — other qualifications for continued licensure — audit. (1) The department on behalf of a program without a board may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education.

(2) As a precondition of license renewal the department may not audit or require proof of continuing education or certification of a program that requires continuing education or state, regional, or national certification. However, a licensee who reactivates a license after the license has expired, as provided in 37-1-141, is subject to a mandatory continuing education audit.

(3) After the lapsed date provided for in 37-1-141, the department may conduct a random audit of up to 50% of all licensees who have renewed their licenses to determine compliance with a program's continuing education requirements.

(4) The department may audit licensees for compliance with state, regional, or national certification or other department requirements.

(5) The department shall provide a licensee not in compliance with continuing education or certification requirements with an opportunity to cure the noncompliance as provided in [section 1].

Section 6. Section 37-1-309, MCA, is amended to read:

"37-1-309. Notice — request for hearing. (1) If a reasonable cause determination is made pursuant to 37-1-307 that a violation of this part has occurred *and the provisions of [section 1] do not apply*, a notice must be prepared by department legal staff and served on the alleged violator. The notice may be served by certified mail to the current address on file with the board or by other means authorized by the Montana Rules of Civil Procedure. The notice may not allege a violation of a particular statute, rule, or standard unless the board or the board's screening panel, if one has been established, has made a written determination that there are reasonable grounds to believe that the particular statute, rule, or standard has been violated.

(2) A licensee or license applicant shall give the board the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the board may enter a decision on the basis of the facts available to it."

Section 7. Section 37-1-313, MCA, is amended to read:

"37-1-313. Appeal. *(1)* A person who is disciplined *by a board under 37-1-308 through 37-1-312* or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

(2) A person who disputes the department's deficiency determination made pursuant to [section 1] may appeal the decision to the board. Consideration of the dispute is not an adversarial or a contested case hearing. The board's decision may be appealed as provided in subsection (1)."

Section 8. Section 37-1-403, MCA, is amended to read:

"37-1-403. Notice — request for hearing. (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint *and the provisions of [section 1] do not apply*, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.

(2) A licensee or license applicant shall give the department the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the department may enter a decision on the basis of the facts available to it."

Section 9. Section 37-1-407, MCA, is amended to read:

"37-1-407. Appeal. *(1)* A person who is disciplined *by the department under 37-1-402 through 37-1-406* or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

(2) A person who disputes the department's deficiency determination made pursuant to [section 1] may appeal the decision to the commissioner of labor and industry. Consideration of the dispute is not an adversarial or a contested case hearing. The commissioner's decision may be appealed as provided in subsection (1)."

Section 10. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction.

(4) Education information obtained electronically by the board or stored in the board's databases may be used to determine compliance with education requirements established by the board. The use of the information may not be considered an audit for purposes of compliance with ~~37-1-131~~ *37-1-306*."

Section 11. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 1].

(2) [Section 5] is intended to be codified as an integral part of Title 37, chapter 1, part 4, and the provisions of Title 37, chapter 1, part 4, apply to [section 5].

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective July 1, 2015.

Approved February 27, 2015

CHAPTER NO. 81

[SB 85]

AN ACT PROVIDING ADDITIONAL METHODS FOR COLLECTING DEBTS OWED TO THE UNEMPLOYMENT INSURANCE FUND; AMENDING SECTIONS 39-51-1307 AND 39-51-3206, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-51-1307, MCA, is amended to read:

"39-51-1307. Collection of unpaid taxes, penalties, and interest by offset. (1) To collect delinquent taxes, penalties, and interest, the department may direct the offset of any funds due the debtor from the state, except wages

subject to the provisions of 25-13-614 and retirement benefits. The department, through the department of revenue, shall provide the debtor with notice of the right to request a hearing on the offset action. A request for hearing must be made within 30 days of the date of the notice.

(2) Subject to approval by the department, reasonable fees or costs of collection incurred by the department of revenue may be added to the amount of the debt, including added fees or costs. The debtor is liable for repayment of the amount of the debt plus fees or costs added pursuant to this subsection. All money collected must be returned to the department to be applied to the debt, except that all fees or costs collected must be retained by the department of revenue. If less than the full amount of the debt is collected, the department of revenue shall retain only a proportionate share of the collection fees or costs.

(3) The department may file a claim for state funds on behalf of the employer if a claim is required before funds are available for offset.

(4) The debt need not be determined to be uncollectible as provided for in 39-51-3207 before being transferred for offset.

(5) The department may direct the offset of funds owed to a person under 26 U.S.C. 6402 if the person owes a covered unemployment insurance tax debt. For the purposes of this subsection, "covered unemployment insurance tax debt" means:

(a) employer contributions, penalties, and interest owed to the unemployment insurance fund for which the department determines a person is liable and which remain uncollected; and

(b) any costs or processing fees associated with obtaining an offset for a covered unemployment insurance tax debt."

Section 2. Section 39-51-3206, MCA, is amended to read:

"39-51-3206. Collection of benefit overpayments. (1) A person who receives benefits not authorized by this chapter shall repay to the department either directly or, as authorized by the department, by offset of future benefits to which the claimant may be entitled, or by a combination of both methods, a sum equal to the amount of the overpayment.

(2) The department may collect a benefit overpayment and any penalty:

(a) by having the claimant pay the amount owed directly to the department by check, money order, credit card, debit card, or electronic funds transfer;

(b) by offsetting the amount of the overpaid benefits owed against future unemployment benefits to be received by the claimant; or

(c) as provided in 39-51-3208.

(3) The claimant is responsible for any:

(a) penalty established in accordance with 39-51-3201; ~~and~~

(b) costs or processing fees associated with using the repayment methods set out in subsection (2)(a)~~.~~*; and*

(c) costs or processing fees associated with obtaining an offset as provided in subsection (7)(a).

(4) *(a)* The department may enter into an agreement with a claimant *for:*

(i) ~~for~~ the repayment of any benefit overpayment and penalty ~~provided that~~ *if* repayment in full is made within 5 years of the date that it was established that an overpayment occurred~~.~~*; or*

(ii) a lump-sum repayment to collect a benefit overpayment if the benefit overpayment was not the result of a false claim, a misrepresentation, or failure to disclose a material fact by the claimant.

(b) The agreement must provide that:

(i) the lump-sum repayment amount is more than 50% of the amount due; and

(ii) the remaining unpaid amount of the benefit overpayment is a debt that is forgiven if the claimant does not, in conjunction with a claim for unemployment benefits, make a false claim or misrepresentation or fail to disclose a material fact during the 2-year period following the claimant's repayment of the lump-sum amount agreed to in subsection (4)(a)(ii).

(5) (a) Except as provided in subsection (5)(b), a benefit offset may not exceed 50% of the weekly benefits to which a claimant is entitled unless the claimant gives ~~written~~ consent.

(b) In cases of theft or fraud or when benefit overpayments have been made to winners of a state lottery as provided in 39-51-3208, benefits may be offset by as much as 100% of the weekly benefits to which a claimant is entitled.

(6) (a) The department may collect any benefit overpayment and penalty by directing the offset of any funds due the claimant from the state, except future unemployment benefits as provided in subsection (1) and retirement benefits. The department, through the department of revenue or through the state lottery commission established in 23-7-201 if overpayment is to be collected as provided in 39-51-3208, shall provide the claimant with notice of the right to request a hearing on the offset action. A request for hearing must be made within 30 days of the date of the notice.

(b) The debt does not have to be determined to be uncollectible before being transferred for offset.

(7) (a) The department may direct the offset of funds owed to a person under 26 U.S.C. 6402 if the person owes a covered unemployment compensation *benefit* debt.

(b) For the purposes of this subsection (7), "covered unemployment compensation *benefit* debt" means~~:~~

~~(i)~~ a benefit overpayment and penalty ~~owed because of the erroneous payment of unemployment compensation resulting from fraud, which~~ *that* has been adjudicated as a debt under Montana law and has remained uncollected ~~for not more than 10 years;~~ *and that is owed because of:*

(i) the erroneous payment of unemployment compensation resulting from the person's own fraud; or

(ii) ~~employer contributions, penalty, and interest owed to the unemployment trust fund that the department determines are attributable to fraud and that have remained uncollected for not more than 10 years.~~ *the person's failure to report earnings, irrespective of whether this failure constitutes fraud.*

(8) If, upon demand of the department, the claimant fails to make the payments provided for in this section, the unpaid benefit overpayment and associated penalty may be treated as a judgment against the claimant at the time the payments become due. The department may issue a certificate setting forth the amount of payment due and direct the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. From the time the judgment is docketed, it becomes a lien upon all real property of the claimant. The department may enforce the judgment at any time within 10 years of creation of the lien.

(9) The department may waive the benefit overpayment if the department finds that:

(a) the claimant did not conceal or misrepresent material facts to obtain the overpaid benefits and that recovery of the benefit overpayment would cause a long-term financial hardship on the claimant; or

(b) the overpayment was the result of department error.

(10) An action for collection of overpaid benefits must be brought within 5 years after the date of the overpayment.

(11) Notwithstanding any other provision of this chapter, the department may recover an overpayment of benefits paid to any individual under the laws of this state or another state or under an unemployment benefit program of the United States."

Section 3. Effective date. [This act] is effective July 1, 2015.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to debts incurred on or before [the effective date of this act].

Approved February 27, 2015

CHAPTER NO. 82

[SB 95]

AN ACT REQUIRING THE DIRECTOR OF REVENUE TO APPOINT AN ADVISORY COUNCIL FOR THE PURPOSE OF COMPLYING WITH THE MULTISTATE TAX COMPACT IF LOCAL SUBDIVISIONS ARE AFFECTED BY THE COMPACT; AND AMENDING SECTION 2-15-1311, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1311, MCA, is amended to read:

"2-15-1311. Advisory council for Multistate Tax Compact. The director of revenue shall appoint an advisory council for the purpose of complying with Article VI, section 1(b)*,* of the Multistate Tax Compact *if local subdivisions are affected by the compact*. The ~~council shall be appointed in accordance with the~~ provisions of 2-15-122 *apply if an advisory council is appointed*."

Approved February 27, 2015

CHAPTER NO. 83

[SB 108]

AN ACT CLARIFYING THE CALCULATION OF THE ANNUAL PER CAPITA FEE; AMENDING SECTION 15-24-922, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-24-922, MCA, is amended to read:

"15-24-922. Board of livestock to prescribe per capita fee — refunds. (1) The board of livestock shall annually prescribe the amount of the per capita fee to be made against livestock of all classes for the purpose indicated in 15-24-921.

(2) The per capita fee must be calculated each year to provide not more than 110% of the average annual revenue that was generated *solely by the per capita fee* in the 3 previous years. The calculation *may not include investment income*

and must apply a reasonable factor for nonpayment and late payment of fees and for reimbursement to the department pursuant to 15-24-925 for collection of the fee.

(3) (a) A livestock owner who moves livestock between states is entitled to a refund of the per capita fee collected under 15-24-921 based on the number of months that the livestock have situs in Montana. The amount of the refund is equal to the ratio of the number of months that the livestock do not have situs in the state to the number of months in the year, multiplied by the original per capita fee due. A taxpayer shall apply to the board of livestock on a form prescribed by the board for a refund allowed under this subsection by January 31 of the following year. The application must include a statement showing the date when the livestock were moved out of the state.

(b) For the purposes of 15-24-921 and this section, the per capita fee may not be prorated."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved February 27, 2015

CHAPTER NO. 84

[SB 113]

AN ACT REVISING LAWS TO PERMIT LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS WITH THE BOARD OF INVESTMENTS; PROVIDING CRITERIA AND CONDITIONS FOR LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS; AMENDING SECTIONS 17-6-204 AND 20-15-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Long-term investment of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision may participate in the various investment pools or other investments offered by the board of investments not otherwise prohibited by law.

(2) A local government may invest with the board of investments under this section if:

(a) the source of the original principal for investment with the board is from an identifiable action or event such as a legal settlement, judgment, bequest, insurance settlement, trust fund, or other one-time source of funds;

(b) the local government does not anticipate the need to expend 50% or more of the original principal for investment within 5 years from the initial investment with the board;

(c) the initial investment is at least $10 million; and

(d) the local government agrees to the board's investment policies, including those addressing liquidity needs, risk and return considerations, asset allocation, permissible investments, and any other necessary investment considerations or limits.

(3) The board of investments is not obligated to accept any funds for investment under this section. No local government is obligated to invest with the board under this section.

Section 2. Section 17-6-204, MCA, is amended to read:

"17-6-204. ~~Investment~~ *Short-term investment* of local government funds. (1) The governing body of any city, county, school district, or other local government unit or political subdivision that has funds that are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit the funds to the state treasurer for investment under the direction of the board of investments as part of the *short-term* pooled investment fund.

(2) A separate account, designated by name and number for each participant in the fund, must be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report must be furnished to each participant having a beneficial interest in the *short-term* pooled investment fund, showing the changes in investments made during the preceding month. Details of any investment transaction must be furnished to any participant upon request.

(3) The principal and accrued income, and any part of that amount, of each account maintained for a participant in the *short-term* pooled investment fund is subject to payment at any time from the fund upon request. Accumulated income must be remitted to each participant at least annually.

(4) An order or warrant may not be issued upon any account for a larger amount than the principal and accrued income of the account to which it applies. If any order or warrant is issued, the participant receiving it shall reimburse the excess amount to the fund from any funds not otherwise appropriated. The state treasurer is liable under the treasurer's official bond for any amount not reimbursed."

Section 3. Section 20-15-403, MCA, is amended to read:

"20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, *[section 1],* 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205, 19-1-102, 19-1-811, 19-20-302, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237, 49-3-101, 49-3-102, 50-71-112, 52-2-617, 53-20-304, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules 4(k) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 6, part 2, and the provisions of Title 17, chapter 6, part 2, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved February 27, 2015

CHAPTER NO. 85

[SB 163]

AN ACT CREATING THE PRIMARY SECTOR BUSINESS TRAINING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AMENDING SECTIONS 39-11-103 AND 39-11-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Primary sector business training account. (1) There is an account in the state special revenue fund called the primary sector business training account.

(2) On July 1 of each year, the state treasurer shall transfer any funds appropriated to the department of commerce primary sector business training program from the general fund to the primary sector business training account.

(3) Money deposited or retained in the account must be used for:

(a) the primary sector business training program;

(b) program costs; and

(c) expenses incurred in administering the primary sector business training program.

(4) Money deposited in the account must be retained and not revert to the general fund.

(5) All interest earned on money in the account must be retained and used for the purposes outlined in subsection (3).

Section 2. Section 39-11-103, MCA, is amended to read:

"39-11-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means the department of commerce established in 2-15-1801.

(2) "Eligible training provider" means:

(a) a unit of the university system, as defined in 20-25-201;

(b) a community college district, as defined in 20-15-101;

(c) an accredited, tribally controlled community college located in the state of Montana; or

(d) an entity approved to provide workforce training that is included on the eligible training provider list.

(3) "Eligible training provider list" means the list maintained by the department of labor and industry of those eligible training providers who may be used to provide workforce training under a grant authorized in 39-11-202.

(4) "Employee" means the individual employed in a new job.

(5) "Employer" means the individual, corporation, partnership, or association providing new jobs and entering into a grant contract.

(6) "Full-time job" means a predominantly year-round position requiring an average of at least 35 hours of work each week.

(7) (a) "New job" means a newly created full-time or part-time job in a primary sector business.

(b) The term does not include:

(i) jobs for recalled employees returning to positions held previously, for replacement employees, or for employees newly hired as a result of a labor dispute, seasonal jobs, or other jobs that previously existed within the employment of the employer in the state; or

(ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that the jobs:

(A) are substantially different as a result of the acquisition; and

(B) will require new training for the employee to meet new job requirements.

(8) "Part-time job" means a predominantly year-round position requiring an average of 25 to 34 hours of work each week.

(9) "Primary sector business" means an employer engaged in establishing or expanding operations within Montana that through the employment of knowledge or labor add value to a product, process, or export service that results in the creation of new wealth and at least one of the following conditions applies:

(a) at least 50% of the sales of the employer occur outside of Montana;

(b) the employer is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana; or

(c) the employer is a new business that provides, as determined by the department, a product or a service that is not available in Montana or a substantially similar product or service that is not available in Montana, which results in state residents leaving the state to purchase the product or service.

(10) "Primary sector business training account" or "account" means the primary sector business training account in [section 1].

~~(10)~~*(11)* "Primary sector business training program" or "program" means the grant provided to employers for the purpose of working with eligible training providers to provide employees with education and training required for jobs in new or expanding primary sector businesses in the state.

~~(11)~~*(12)* (a) "Program costs" means all necessary and incidental costs of providing program services.

(b) The term does not include the cost of equipment to be owned or used by the eligible training provider.

~~(12)~~*(13)* "Program services" means training and education specifically directed to the new jobs, including:

(a) all direct training costs, such as:

(i) program promotion;

(ii) instructor wages, per diem, and travel;

(iii) curriculum development and training materials;

(iv) lease of training equipment and training space;

(v) miscellaneous direct training costs;

(vi) administrative costs; and

(vii) assessment and testing;

(b) in-house or on-the-job training; and

(c) subcontracted services with eligible training providers."

Section 3. Section 39-11-202, MCA, is amended to read:

"39-11-202. Primary sector business workforce training grants — eligibility. (1) Subject to appropriation by the legislature *to the primary sector*

business training program, the department may award workforce training grants to primary sector businesses that provide education or skills-based training, through eligible training providers, for employees in new jobs.

(2) To be eligible for a grant, an applicant shall demonstrate that the applicant is a primary sector business and meets at least one of the following criteria:

(a) is a value-adding business as defined by the Montana board of investments;

(b) has a significant positive economic impact to the region and state beyond the job creation involved;

(c) provides a service or function that is essential to the locality or the state; or

(d) is a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the community or region.

(3) An applicant shall also provide a match of at least $1 for every $3 requested. The match:

(a) must be from new, unexpended funds available at the time of application; *and*

(b) may include new loans and investments and expenditures for direct project-related costs such as new equipment and buildings. The department may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within 90 days after submission of the application may be considered eligible by the department.

(4) (a) Except as provided in subsection (4)(c), a grant provided under this section may not exceed $5,000 for each full-time position and $2,500 for each part-time position for which an employee is being trained. A grant may be provided only for a new job that has an average weekly wage that meets or exceeds the lesser of 170% of Montana's current minimum wage or the current average weekly wage of the county in which the employees are to be principally employed, provided minimum wage requirements are met.

(b) The department may consider the value of employee benefits in calculating the expected annual wage.

(c) The department may, in exceptional circumstances, consider a higher grant ceiling for jobs that will pay high wages and benefits if the need for higher training costs is documented in the application.

(d) A grant provided under this section must be proportional to the number of jobs provided, the expected average annual wage of all jobs provided, and the underlying economic indicators of the region where the majority of the jobs will be created.

(5) Funding ceilings must be determined by the availability of funding, the cost for each job, the quality of the primary sector business proposal, and whether training will be provided in Montana.

(6) The grant application, at a minimum, must contain:

(a) a business plan containing information that is sufficient for the department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a business plan, the department may consider a copy of the current loan application to entities such as the Montana board of

investments, the federal business and industry guarantee program, or the small business administration.

(b) financial statements and projections for the 2 most recent years of operation and projections for each of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and cash flow statements. A business operating for less than 2 years shall provide all available financial statements.

(c) a hiring and training plan, which must include:

(i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are full-time, part-time, skilled, semiskilled, or unskilled positions;

(ii) a timetable for creating the positions and the total number of employees to be hired;

(iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

(iv) procedures for outreach, recruitment, screening, training, and placement of employees;

(v) a description of the training curriculum and resources;

(vi) written commitments from any agency or organization participating in the implementation of the hiring plan; and

(vii) a description of the type and method of training to be provided to employees, the starting wage and wage to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(7) If the department determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the department, the department may award a primary sector business workforce development grant to the employer and authorize the disbursement of funds under contract to the primary sector business.

(8) The department shall provide employers assistance in accessing workforce and education services outside the scope of this chapter for which employees may be eligible. These additional services may not be used to replace a grant provided under this section once the contract has been finalized.

(9) (a) A contract with a grant recipient must contain provisions:

(i) certifying that the amount of the grant already expended will be reimbursed in the event that the primary sector business ceases operation in the state of Montana within the grant contract period, which may be up to 2 years;

(ii) specifying that the employer may receive grant funds over the contract period only upon documenting the creation of eligible jobs, the hiring of employees for the jobs, or the incurring of eligible training expenses; and

(iii) providing the department with annual reports and a final closeout report that documents the wages paid to an employee upon completion of the training.

(b) The contract must be signed by the person in the primary sector business who is assigned the duties and responsibilities for training and the overall success of the program and by the primary sector business's chief executive.

(10) The department may adopt rules to implement this section."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 11, part 2, and the provisions of Title 39, chapter 11, part 2, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all workforce training grants awarded on or after July 1, 2011.

Approved February 27, 2015

CHAPTER NO. 86

[SB 135]

AN ACT EXPANDING EXEMPTIONS FROM STATE OVERTIME REQUIREMENTS FOR CERTAIN AIR CARRIER EMPLOYEES VOLUNTARILY TRADING WORK HOURS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores, such as babysitting, mowing lawns, and cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) persons with disabilities engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) an individual employed in a bona fide executive, administrative, or professional capacity, as these terms are defined by regulations of the commissioner, a computer systems analyst, computer programmer, software engineer, network administrator, or other similarly skilled computer employee who earns not less than $27.63 an hour pursuant to 29 CFR 541.400 or 541.402,

or an individual employed in an outside sales capacity pursuant to 29 CFR 541.500;

(k) an individual employed by the United States of America;

(l) resident managers employed in lodging establishments or assisted living facilities who, under the terms of their employment, live in the establishment or facility;

(m) a direct seller as defined in 26 U.S.C. 3508;

(n) a person placed as a participant in a public assistance program authorized by Title 53 into a work setting for the purpose of developing employment skills. The placement may be with either a public or private employer. The exclusion does not apply to an employment relationship formed in the work setting outside the scope of the employment skills activities authorized by Title 53.

(o) a person serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(p) an employee employed in domestic service employment to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act, 29 U.S.C. 213, when the person providing the service is employed directly by a family member or an individual who is a legal guardian.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States secretary of transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 31502;

(b) an employee of an employer subject to 49 U.S.C. 10501 and 49 U.S.C. 60501, the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles or implements to ultimate purchasers;

(e) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) a salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;

(g) an employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that the plan has the general purpose and effect of reducing hours worked by the employees to or below the maximum workweek applicable to them under 39-3-405;

(h) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not owned or operated for profit, that are not operated on a sharecrop basis, and that are used exclusively for supply and storing of water for agricultural purposes;

(i) an employee employed in agriculture by a farmer, notwithstanding other employment of the employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

(i) primarily employed during a workweek in agriculture by a farmer; and

(ii) paid for employment in connection with the livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(j) an employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm if no more than five employees are employed by the establishment;

(k) a driver employed by an employer engaged in the business of operating taxicabs;

(l) an employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as the employee and the employee's spouse reside in the facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000;

(m) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;

(n) an employee of a sheriff's office who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1);

(o) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(p) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(q) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;

(r) an officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police under 7-32-4118;

(s) an employee of a department of public safety working under a work period established pursuant to 7-32-115;

(t) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, and if more than half of the employee's compensation for a period of not less than 1 month is derived from commissions on goods and services;

(u) a person employed as a guide, cook, camp tender, [outfitter's assistant,] or livestock handler by a licensed outfitter as defined in 37-47-101;

(v) an employee employed as a radio announcer, news editor, or chief engineer by an employer in a second- or third-class city or a town;

(w) an employee of the consolidated legislative branch as provided in 5-2-503;

(x) an employee of the state or its political subdivisions employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee was employed in a capacity other than the employee's regular occupation may be excluded from the calculation of hours to determine overtime compensation.

(y) an employee of an air carrier subject to the provisions of 45 U.S.C. 181, et seq., whose hours worked in excess of 40 hours in a workweek were not required by the air carrier but were arranged through a voluntary agreement among employees to trade scheduled work hours. (Bracketed language in subsection (2)(u) terminates August 31, 2015—sec. 11, Ch. 241, L. 2013.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 5, 2015

CHAPTER NO. 87

[SB 72]

AN ACT REPEALING PROHIBITIONS ON POLITICAL PARTY ENDORSEMENTS AND EXPENDITURES WITH RESPECT TO JUDICIAL CANDIDATES; CLARIFYING THAT POLITICAL PARTY CONTRIBUTION PROHIBITIONS APPLY TO JUSTICES OF THE PEACE; AND AMENDING SECTIONS 3-10-201 AND 13-35-231, MCA.

WHEREAS, in Sanders County Republican Central Committee v. Bullock, 698 F.3d 741 (9th Cir. 2012), the Ninth Circuit found portions of 13-35-231 that prohibit a political party from endorsing judicial candidates or expending money to publicize such endorsements unconstitutional.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-10-201, MCA, is amended to read:

"3-10-201. Election. (1) Except as provided in 3-10-206, each justice of the peace must be elected by the qualified electors of the county at the general state election immediately preceding the expiration of the term of office of the justice of the peace's predecessor.

(2) A justice of the peace must be nominated and elected on the nonpartisan judicial ballot in the same manner as judges of the district court.

(3) Each judicial office must be a separate and independent office for election purposes, each office must be numbered by the county commissioners, and each candidate for justice of the peace shall specify the number of the office for which the candidate seeks to be elected. A candidate may not file for more than one office.

(4) Section 13-35-231, prohibiting political party ~~endorsement for~~ *contributions to* judicial officers, applies to justices of the peace."

Section 2. Section 13-35-231, MCA, is amended to read:

"13-35-231. Unlawful for political party to ~~endorse~~ *contribute to* judicial candidate. A political party may not ~~endorse,~~ contribute to~~, or make an expenditure to support or oppose~~ a judicial candidate."

Approved March 6, 2015

CHAPTER NO. 88

[SB 139]

AN ACT PROVIDING THAT THE PORTION OF JURY LISTS SELECTED FROM REGISTERED ELECTORS WILL INCLUDE ONLY REGISTERED ACTIVE ELECTORS; AMENDING SECTION 3-15-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-15-402, MCA, is amended to read:

"3-15-402. Selection of qualified persons. The secretary of state shall select from the most recent list of all registered *active* electors*, as defined in 13-1-101,* and make a list of the names of all persons qualified to serve as trial jurors, as prescribed in part 3 of this chapter. The secretary of state shall then combine the resulting list with the list submitted to the secretary of state under 61-5-127, ensuring that a person's name does not appear on the combined list more than once. Each name appearing on the combined list must be assigned a number that must be placed opposite the name on the combined list and must be considered the number of the juror opposite whose name it appears. A person's name may not appear on a combined list for more than one court during a 1-year term."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 16, 2015

CHAPTER NO. 89

[HB 19]

AN ACT CLARIFYING THE AUTHORITY OF THE GOVERNOR TO CHANGE THE PRESIDING OFFICER OF THE BOARD OF PARDONS AND PAROLE; AND AMENDING SECTION 2-15-2302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2302, MCA, is amended to read:

"2-15-2302. Board of pardons and parole — composition — allocation — quasi-judicial. (1) There is a board of pardons and parole.

(2) (a) The board consists of seven members, each of whom must have knowledge of American Indian culture and problems gained through training as required by rules adopted by the board. One member must be an enrolled

member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana. The tribal member may not be required to hear and act on all American Indian applications before the board.

(b) Board members must have knowledge of serious mental illness and recovery from serious mental illness gained through annual training as required by rules adopted by the board. One member must be a mental health professional as defined in 53-21-102.

(c) Board members must possess academic training that has qualified them for professional practice in a field such as criminology, education, medicine, psychiatry, psychology, law, social work, sociology, psychiatric nursing, or guidance and counseling. Related work experience in the areas listed may be substituted for these educational requirements.

(3) The governor shall attempt to establish geographic balance among board members.

(4) Board members shall serve staggered 4-year terms. The governor shall appoint three members in January of the first year of the governor's term, two members in January of the second year of the governor's term, and two members in January of the third year of the governor's term. The provisions of 2-15-124(2) do not apply to the board.

(5) The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

(6) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

~~(6)~~*(7)* The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

~~(7)~~*(8)* The board is designated as a quasi-judicial board for purposes of 2-15-124, except board members must be compensated as provided by legislative appropriation and the terms of board members must be staggered as provided in subsection (4).

~~(8)~~*(9)* A favorable vote of at least a majority of the seven members of the board is required to implement any policy, procedure, or administrative rule. A favorable vote of at least a majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency, and the provisions of 2-15-124(8) do not apply."

Approved March 17, 2015

CHAPTER NO. 90

[HB 80]

AN ACT REVISING CERTAIN LICENSING BOARD LAWS; AMENDING FINES REGARDING PROOF OF LICENSE VIOLATIONS FOR THE STATE ELECTRICAL BOARD AND THE BOARD OF PLUMBING; CLARIFYING THE JURISDICTION OF THE STATE ELECTRICAL BOARD REGARDING LOW-VOLTAGE WORK; REVISING MINIMUM QUALIFICATIONS FOR JOURNEYMAN PLUMBER LICENSURE; AMENDING SECTIONS

37-68-103, 37-68-316, 37-69-304, AND 37-69-310, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-68-103, MCA, is amended to read:

"37-68-103. Exemptions. (1) This chapter does not apply to the installation, alteration, or repair of electrical signal or communications equipment owned or operated by a public utility or a city. For purposes of this exemption, "communications equipment" includes telephone wire inside a customer's premises. This chapter does not prohibit a public utility from doing inside wiring to install, alter, repair, or maintain electrical equipment, installations, or facilities in buildings owned by the public utility if the work is accomplished by an employee who is a licensed electrician. If the building owned by the public utility is open to the public and the inside wiring constitutes major renovation or construction, the installation, alteration, repair, or maintenance of electrical equipment, installations, or facilities is subject to the permits and inspections required by law.

(2) The licensing or inspection provisions of this chapter do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer or to line work on the business premises of the employer when ordinary and customary in-plant or onsite installations, modifications, additions, or repairs are performed.

(3) This chapter does not require an individual to hold a license to perform electrical work on the individual's own property or residence if the property or residence is maintained for the individual's own use.

(4) An individual, firm, partnership, or corporation may apply for licensure as an electrical contractor if all electrical work performed by the individual, firm, partnership, or corporation is under the direction, control, and supervision of a licensed master electrician or under the direction, control, and supervision of a licensed journeyman electrician for residential construction consisting of less than five living units in a single structure.

(5) A person who plugs in an electrical appliance where an approved electrical outlet is already installed may not be considered an installer.

(6) This chapter may not in any manner interfere with, hamper, preclude, or prohibit a vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure in which the appliance is to be connected.

(7) This chapter does not require an individual to hold a license to perform electrical work involving 90 volts or less of alternating current or direct current."

Section 2. Section 37-68-316, MCA, is amended to read:

"37-68-316. Citation and fine for failure to display license. (1) A citation for failure to display an electrician's license or proof of licensure issued by an employee of the department must include:

(a) the time and date on which the citation is issued;

(b) the name, address, mailing address, and signature of the person to whom the citation is issued;

(c) reference to the statutory authority to issue the citation;

(d) the name, title, affiliation, and signature of the person issuing the citation;

(e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate proof of licensure; and

(f) the amount of the applicable fine.

(2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

(a) $100 for the first offense*, unless the provisions of subsection (4)(b) apply*;

(b) $250 for the second offense; and

(c) $500 for the third and any subsequent offense.

(3) Each day of violation constitutes a separate offense. The person issuing the citation is responsible for determining, by means of an up-to-date list or through telephone or other communication with the board office, whether the citation being issued is for a first, second, or subsequent offense.

(4) *(a)* The person who issues the citation is authorized to collect the fine, but the person who is issued a citation may pay the fine to the appropriate authority identified on the citation within 5 business days of the date of issuance.

(b) The board *may not impose a fine for a first offense on a licensee who produces proof of licensure to the department within 5 days of the citation. In other cases, the board* may, upon finding that the person has demonstrated acceptable proof of licensure, waive or refund the fine.

(5) A person who refuses to sign and accept a citation commits a misdemeanor, punishable in the same manner as provided in 37-1-318."

Section 3. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license — restriction on authority. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 years of legally obtained experience in the field of plumbing. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or pay records, or by completing an apprenticeship program meeting the standards set by the department or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of ~~an~~ *a written* examination prescribed by the board *and* conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and ~~establishing by~~*, if required by the board, a* practical demonstration *establishing* competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board."

Section 4. Section 37-69-310, MCA, is amended to read:

"37-69-310. Citation and fine for failure to display license. (1) A citation for failure to display a plumber's license or proof of licensure issued by an employee of the department must include:

(a) the time and date on which the citation is issued;

(b) the name, address, mailing address, and signature of the person to whom the citation is issued;

(c) reference to the statutory authority to issue the citation;

(d) the name, title, affiliation, and signature of the person issuing the citation;

(e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate proof of licensure; and

(f) the amount of the applicable fine.

(2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

(a) $100 for the first offense*, unless the provisions of subsection (4)(b) apply*;

(b) $250 for the second offense; and

(c) $500 for the third and any subsequent offense.

(3) Each day of violation constitutes a separate offense. The person issuing the citation is responsible for determining, by means of an up-to-date list or through telephone or other communication with the board office, whether the citation being issued is for a first, second, or subsequent offense.

(4) *(a)* The person who issues the citation is authorized to collect the fine, but the person who is issued a citation may pay the fine to the board within 5 business days of the date of issuance.

(b) The board *may not impose a fine for a first offense on a licensee who produces proof of licensure to the department within 5 days of the citation. In other cases, the board* may, upon finding that the person has demonstrated acceptable proof of licensure, waive or refund the fine.

(5) A person who refuses to sign and accept a citation commits a misdemeanor, punishable in the same manner as provided in 37-1-318."

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved March 17, 2015

CHAPTER NO. 91

[HB 83]

AN ACT REPEALING REQUIREMENTS FOR VISITOR INFORMATION CENTER SIGNS HANDLED AS JOINT PROJECTS BY THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF TRANSPORTATION; REPEALING SECTION 60-2-243, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following section of the Montana Code Annotated is repealed:

60-2-243. Visitor information centers — signs.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 17, 2015

CHAPTER NO. 92

[HB 144]

AN ACT REQUIRING THAT GAME BIRD HUNTERS OBTAIN LANDOWNER PERMISSION TO HUNT ON PRIVATE PROPERTY; AND AMENDING SECTION 87-6-415, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-415, MCA, is amended to read:

"87-6-415. Failure to obtain landowner's permission for hunting. (1) A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take ~~nongame wildlife, predatory animals, game animals, or wolves~~ *game animals, migratory game birds, nongame wildlife, predatory animals, upland game birds, or wolves* while hunting on private property.

(2) A person who violates this section shall, upon conviction for a first offense, be fined $135.

(3) A person convicted of a second offense of hunting on private property without obtaining permission of the landowner within 5 years shall be fined not less than $500 or more than $1,000.

(4) In addition, the person, upon conviction under subsection (3) or forfeiture of bond or bail:

(a) may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court; and

(b) may be ordered to make restitution for property damage resulting from the violation in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted."

Approved March 17, 2015

CHAPTER NO. 93

[HB 98]

AN ACT REVISING REQUIREMENTS FOR MOTOR VEHICLE TIRE TRACTION DEVICES; REMOVING THE REQUIREMENT THAT TIRE TRACTION EQUIPMENT CONFORM TO RULES ESTABLISHED BY THE DEPARTMENT OF JUSTICE; AMENDING SECTIONS 61-9-406 AND 61-9-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-406, MCA, is amended to read:

"61-9-406. Restrictions as to tire equipment — particular tires, chains, or traction ~~equipment~~ *devices* — definitions. (1) A solid rubber tire on a vehicle must have rubber on its entire traction surface at least 1 inch thick above the edge of the flange of the entire periphery.

(2) A person may not operate or move on a highway a motor vehicle, trailer, or semitrailer having a metal tire in contact with the roadway.

(3) A tire on a vehicle moved on a highway may not have on its periphery a block, stud, flange, cleat, spike, or other protuberance of a material other than rubber that projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway. It is also permissible to use tire chains of

reasonable proportions or pneumatic tires, the traction surfaces of which have been embedded with material, such as wood, wire, plastic or metal, that may not protrude more than one-sixteenth of an inch beyond the tire tread or that are clearly marked by the manufacturer on the sidewall "all season m&s" (or "all season mud and snow"), upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. Except as provided in subsection (4), the use of pneumatic tires embedded as provided in this section is permitted only between October 1 and May 31 of each year, except that one of those tires may be used for a spare in case of tire failure. School buses equipped with such embedded pneumatic tires may operate from August 15 through the following June 15.

(4) Pneumatic tires that feature an embedded block, stud, flange, cleat, spike, or other protuberance that is retractable may be used at any time of the year. However, the protuberance may not be engaged or extended other than between October 1 and May 31 of each year on roads that do not contain ice or snow.

(5) The department of transportation and local authorities, as defined in 61-8-102, in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of farm tractors or other farm machinery or of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks, the operation of which upon the highway would otherwise be prohibited under this section.

(6) ~~If the~~ *The* department of transportation ~~determines~~ *may determine* at any time that dangerous or unsafe conditions on a highway require particular tires, tire chains, or traction ~~equipment~~ *devices* for vehicles in addition to or beyond the ordinary pneumatic rubber tires~~, the department may establish the following recommendations or requirements with respect to the use of the equipment for all vehicles using the highway:~~

~~(a) chains or other approved traction devices recommended for driver wheels;~~

~~(b) chains or other approved traction devices required for driver wheels; or~~

~~(c) chains required for driver wheels.~~

~~(7) Equipment required by subsection (6)(b) or (6)(c) must conform to rules established by the department of justice~~.

~~(8)~~*(7)* The department of transportation shall place and maintain signs and other traffic control devices on a highway designated under subsection (6) that indicate the tire, tire chain, or traction ~~equipment recommendation or~~ *device* requirement determined for vehicles. The signs or traffic control devices may not prohibit the use of pneumatic tires embedded as provided in subsection (3) between October 1 and May 31 of each year, but when the department of transportation determines that chains are required and that no other traction ~~equipment~~ *devices* will suffice, the requirement is applicable to tires on driver wheels of one axle, as defined in 61-10-104, of a vehicle, including embedded tires. The signs or traffic control devices may differentiate in ~~recommendations or~~ requirements for four-wheel-drive vehicles in gear.

~~(9)~~*(8)* As used in this section:

(a) "metal tire" means a tire the surface of which in contact with the highway is wholly or partly metal or other hard, nonresilient material; and

(b) "pneumatic tire" means a tire in which compressed air or nitrogen is designed to support the load."

Section 2. Section 61-9-520, MCA, is amended to read:

"61-9-520. Violation of tire chain or traction device use — penalty. (1) A person violating the provisions of ~~61-9-406(5) through~~ *61-9-406(6) and* (7) is guilty of the nonmoving offense of failure to use chains or approved traction devices when required and upon conviction shall be punished by a fine of $25, and no jail sentence may be imposed. Bond for this offense shall be $25.

(2) A violation of ~~61-9-406(5) through~~ *61-9-406(6) and* (7) is not a misdemeanor subject to 45-2-101, 61-9-511, 61-9-512, or 61-9-519."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 18, 2015

CHAPTER NO. 94

[HB 161]

AN ACT REVISING THE REQUIREMENTS FOR DETERMINATION OF CAUSE RESULTING FROM INVESTIGATION INTO THE CAUSE AND CIRCUMSTANCES OF A FIRE; AND AMENDING SECTION 50-63-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-63-201, MCA, is amended to read:

"50-63-201. Cause of fire to be investigated. The *origin,* cause, ~~origin,~~ and circumstances of each fire by which property has been destroyed or damaged shall be investigated to determine the ~~exact~~ cause and circumstances. The department of justice may superintend and direct the investigation."

Approved March 18, 2015

CHAPTER NO. 95

[HB 260]

AN ACT REVISING LAWS RELATING TO PAYMENT OF PUBLICATION AND NOTICE OF A PETITION TO CHANGE IRRIGATION DISTRICT BOUNDARIES; AMENDING SECTION 85-7-1805, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-7-1805, MCA, is amended to read:

"85-7-1805. Notice requirements. ~~On such petition being filed~~ *(1) Upon the filing of a petition*, the district court ~~or judge thereof~~ shall ~~make an order fixing~~ *fix* the time and place of hearing on the petition and ~~directing~~ *direct* that notice ~~thereof~~ *of the petition* be given. ~~Thereupon the~~

(2) The ~~clerk of said court~~ *petitioner* shall cause to be published at least once a week for 2 successive ~~calendar~~ weeks~~,~~ in ~~some~~ *a* newspaper published in the county where the petition is filed~~,~~ a notice stating the time and place ~~fixed by the district court when and where~~ *of* the hearing on ~~said~~ *the* petition ~~will be had and containing~~ *that includes* a brief statement of the matters set forth in ~~said~~ *the* petition ~~and the object thereof~~. If any portion of the lands sought to be excluded from the district lie within any other county or counties, then ~~said~~ *the* notice shall be published as provided above in a newspaper published in each ~~such other county~~ *county or counties*. The first publication of ~~said~~ *the* notice ~~shall be~~ *must occur* not less than 30 days ~~prior to the time mentioned in said notice for said~~ *before the* hearing.

(3) If any holder of title or evidence of title to lands sought to be excluded from the district is a nonresident of the county or counties in which the district lies, the ~~clerk of said court~~ *petitioner* shall~~,~~ within 3 days ~~after the first publication aforesaid,~~ *of the first publication of the notice* mail a copy of ~~said~~ *the* notice to each ~~such~~ nonresident whose ~~post-office~~ address is stated in ~~said~~ *the* petition. The ~~certificate of the clerk of the district court, under the seal of the court,~~ *affidavit of publication* as to the facts of the publishing and mailing of ~~said~~ *the* notice affixed to a copy ~~thereof shall be~~ *of the notice is* sufficient evidence of ~~such~~ *the* facts."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 18, 2015

CHAPTER NO. 96

[HB 43]

AN ACT PROVIDING THAT THE GOVERNOR HAS THE FINAL AUTHORITY WITH RESPECT TO CLEMENCY AND MAY DETERMINE WHETHER A CLEMENCY HEARING TAKES PLACE AND WHETHER CLEMENCY IS GRANTED IF THE BOARD OF PARDONS AND PAROLE DENIES AN APPLICANT A HEARING OR DENIES CLEMENCY; PROHIBITING CLEMENCY RECOMMENDATIONS AND DECISIONS IF THE APPLICANT IS RELATED OR CONNECTED TO THE GOVERNOR OR WORKS OR HAS WORKED IN THE OFFICE OF THE GOVERNOR SINCE THE GOVERNOR TOOK OFFICE; AMENDING SECTIONS 46-23-103, 46-23-104, 46-23-301, 46-23-302, AND 46-23-307, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-23-103, MCA, is amended to read:

"46-23-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of pardons and parole provided for in 2-15-2302.

(2) "Department" means the department of corrections provided for in 2-15-2301.

(3) "Executive clemency" refers to the powers of the governor as provided by section 12 of Article VI of the constitution of Montana.

(4) "Hearing panel" means a panel made up of two or three board members appointed to conduct parole hearings, revocation hearings, rescission hearings, and administrative parole reviews and to make ~~final decisions and~~ recommendations in matters of executive clemency.

(5) "Parole" means the release to the community of a prisoner by the decision of a hearing panel prior to the expiration of the prisoner's term, subject to conditions imposed by the hearing panel and subject to supervision of the department.

(6) "Victim" means a victim as defined in 46-18-243."

Section 2. Section 46-23-104, MCA, is amended to read:

"46-23-104. Board of pardons and parole. (1) The board of pardons and parole is responsible for executive clemency and parole as provided in this chapter.

(2) The board shall meet monthly at a place determined by the board and at other times and places that the board considers necessary.

(3) The principal office of the board is in Deer Lodge.

(4) The presiding officer of the board or a designee in consultation with the members shall appoint hearing panels and their presiding officers to conduct hearings and to issue ~~final~~ *final* decisions concerning parole and *recommendations concerning* executive clemency and shall request out-of-state releasing authorities to conduct hearings pursuant to Article IV(6) of the Western Interstate Corrections Compact. The presiding officer of the board or a designee shall attempt to make hearing panel appointments in a manner that ensures equitable distribution of workload among board members. If a hearing panel consisting of two members is unable to reach a unanimous decision, the presiding officer of the board shall appoint a third member to consider all pertinent information and render a ~~final~~ *final* decision *concerning parole or a recommendation concerning executive clemency*. The hearing panels have the full authority and power of the board to order the denial, grant, or revocation of parole and to make ~~final decisions and~~ recommendations in matters of executive clemency."

Section 3. Section 46-23-301, MCA, is amended to read:

"46-23-301. Cases of executive clemency — application for clemency — definitions. (1) (a) "Clemency" means kindness, mercy, or leniency that may be exercised by the governor toward a convicted person. The governor may grant clemency in the form of:

(i) the remission of fines or forfeitures;

(ii) the commutation of a sentence to one that is less severe;

(iii) respite; or

(iv) pardon.

(b) "Pardon" means a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction.

(2) A person convicted of a crime need not exhaust judicial or administrative remedies before filing an application for clemency, except that an application may not be filed with respect to a sentence of death while an automatic review proceeding is pending before the Montana supreme court under 46-18-307 through 46-18-310. The board shall consider cases of executive clemency only upon application. All applications for executive clemency must be made to the board. An application for executive clemency in capital cases may be filed with the board no later than 10 days after the district court sets a date of execution. Applications may be filed only by the person convicted of the crime, by the person's attorney acting on the person's behalf and with the person's consent, or by a court-appointed next friend, guardian, or conservator acting on the person's behalf.

(3) (a) After a hearing panel has considered an application for executive clemency and has by majority vote favored a hearing, the hearing panel shall cause an investigation to be made of and base any recommendation it makes on:

~~(a)~~*(i)* all the circumstances surrounding the crime for which the applicant was convicted;

~~(b)~~*(ii)* the applicant's criminal record; and

~~(c)~~*(iii)* the individual circumstances relating to social conditions of the applicant prior to commission of the crime, at the time the offense was committed, and at the time of the application for clemency.

(b) If the hearing panel does not favor a hearing by majority vote, the hearing panel shall transmit the application to the governor. The governor shall review the application and determine whether a hearing is appropriate. If the governor determines that a hearing is appropriate, the governor shall transmit the application back to the hearing panel. The hearing panel shall cause an investigation to be made of and base any recommendation it makes on the factors set forth in subsection (3)(a).

~~(3)~~*(4)* A hearing panel may recommend that clemency be granted or denied. ~~In noncapital cases, if the hearing panel recommends that clemency be denied, the application may not be forwarded to the governor and the governor may not take action on the case. In capital cases, the~~ *The* hearing panel shall transmit the application and either a recommendation that clemency be granted or a recommendation that clemency be denied to the governor. The governor is not bound by any recommendation of the hearing panel, but the governor shall review the record of the hearing and the hearing panel's recommendation before granting or denying clemency. The governor has the final authority to grant or deny clemency ~~in those cases forwarded to the governor~~. An appeal may not be taken from the governor's decision to grant or deny clemency.

(5) (a) A hearing panel may not recommend clemency if the applicant:

(i) is related or connected to the governor by consanguinity within the fourth degree or by affinity within the second degree as provided in 1-1-219; or

(ii) works or has worked in the office of the governor since the governor took office.

(b) The governor may not grant clemency to an applicant described in subsection (5)(a)."

Section 4. Section 46-23-302, MCA, is amended to read:

"46-23-302. Order for hearing on application for executive clemency. After a hearing panel has considered an application for executive clemency and has by majority vote favored a hearing *or the governor has determined that a hearing is appropriate*, ~~it~~ *the hearing panel* shall pass an order in substance as follows:

"Whereas, the Board of Pardons and Parole has officially received an application for executive clemency concerning ...., a convict confined in the state prison (or concerning ...., who has been found guilty of an offense committed against the laws of the state), who was convicted of the crime of.... committed at ...., in the county of ...., State of Montana, on the .... day of ...., 20..., and sentenced for a term of .... years.

Therefore, it is ordered that ...., the .... day of ...., 20..., is set for the consideration of the executive clemency matter and all persons having an interest in the matter who desire to be heard either for or against the granting of the pardon, commutation, restoration of citizenship, or remission or suspension of fine or forfeiture are notified to be present at .... o'clock of that day, at .....

Further, it is ordered that a copy of this order be printed and published in the.... (here insert name of some newspaper of general circulation in the county where the crime was committed), a daily (or weekly) newspaper printed and published at ...., in the county of ...., once each week for 2 weeks beginning ...., 20..., and ending ....."

Section 5. Section 46-23-307, MCA, is amended to read:

"46-23-307. ~~Decision~~ *Recommendation* of board. Within 30 days after the hearing of ~~any capital~~ *a* case ~~or in noncapital cases where the decision is made to recommend clemency be granted~~, the hearing panel ~~must~~ *shall* make a

~~decision~~ *recommendation* in writing~~,~~ and ~~if such decision be made to recommend executive clemency, the~~ *a* copy of the ~~decision~~ *recommendation* together with all papers used in each case ~~shall~~ *must* be immediately transmitted to the governor."

Section 6. Applicability. [This act] applies to applications filed on or after [the effective date of this act].

Approved March 20, 2015

CHAPTER NO. 97

[HB 50]

AN ACT CLARIFYING PENALTY PROVISIONS FOR LIQUOR LICENSING BY ADDING NEWER LIQUOR LICENSE TYPES TO THE EXISTING PENALTY PROVISIONS; AMENDING SECTION 16-4-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-406, MCA, is amended to read:

"16-4-406. Renewal — suspension or revocation — penalty — mitigating and aggravating circumstances. (1) The department shall upon a written, verified complaint of a person request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, ~~or~~ *domestic distillery, table wine distributor, beer or wine importer,* retailer ~~licensed~~*, or any other person or business licensed or registered* under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of the licensee or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

(a) reprimand a licensee;

(b) proceed to revoke the license of the licensee;

(c) suspend the license for a period of not more than 3 months;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $1,500.

(3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) there have been no violations by the licensee within the past 3 years;

(b) there have been good faith efforts by the licensee to prevent a violation;

(c) written policies exist that govern the conduct of the licensee's employees;

(d) there has been cooperation in the investigation of the violation that shows that the licensee or an employee or agent of the licensee accepts responsibility;

(e) the investigation was not based on complaints received or on observed misconduct, but was based solely on the investigating authority creating the opportunity for a violation; or

(f) the licensee has provided responsible alcohol server training to all of its employees.

(4) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) multiple violations during the course of the investigation;

(e) efforts to conceal a violation;

(f) the intentional nature of the violation; or

(g) involvement of more than one patron or employee in a violation."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2015

CHAPTER NO. 98

[HB 53]

AN ACT PROVIDING AN EXCEPTION FOR MEMBERS OF THE MILITARY AND CERTAIN FAMILY MEMBERS TO THE PROHIBITION ON PROPERTY OR CASUALTY INSURERS PROVIDING DISCOUNTS OR REBATES; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Military discount exception to rebate and discount prohibition for property or casualty insurance. (1) The prohibition against rebates or discounts provided for in 33-18-210 does not apply with respect to property or casualty insurance sales to:

(a) an active, retired, or honorably separated member of the United States armed forces, including a member of a reserve component as defined in 37-1-138; or

(b) a spouse, surviving spouse, dependent, or heir of a United States armed forces member referred to in subsection (1)(a).

(2) This section does not permit unfair discrimination based on rank or pay grade.

Section 2. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited — *for title,* property, casualty, ~~and~~ *or* surety ~~insurances~~ *insurance — exceptions — limitations.* (1) ~~A~~ *Except as provided in subsection (4), a* title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) ~~An~~ *Except as provided in subsection (4), an* insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably separated member of the United States armed forces as described in [section 1(1)(a)] or to a spouse, surviving spouse, dependent, or heir of a United States armed forces member as provided in [section 1].

~~(4)~~*(5)* This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

~~(5)~~*(6)* An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(6)~~*(7)* An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(7)~~*(8)* An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

~~(8)~~*(9)* An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

~~(9)~~*(10)* (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history that is 3 years old or older.

(b) An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or older.

(c) As used in subsection ~~(9)(a)~~ *(10)(a)*, "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

~~(10)~~*(11)* An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2015

CHAPTER NO. 99

[HB 126]

AN ACT PROVIDING COMPENSATION TO BURIAL PRESERVATION BOARD MEMBERS WHEN PERFORMING BOARD ACTIVITIES; AMENDING SECTIONS 22-3-804 AND 22-3-811, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 22-3-804, MCA, is amended to read:

"22-3-804. Board — composition — rights — responsibilities. (1) There is a burial preservation board. The board is composed of:

(a) one representative of each of the seven reservations, appointed by the governor from a list of up to three nominees provided by each of the respective tribal governments;

(b) one person appointed by the governor from a list of up to three nominees submitted by the Little Shell band of Chippewa Indians;

(c) one person appointed by the governor from a list of up to three nominees submitted by the Montana state historic preservation officer;

(d) one representative of the Montana archaeological association appointed by the governor from a list of up to three nominees submitted by the Montana archaeological association;

(e) one physical anthropologist appointed by the governor;

(f) one representative of the Montana coroners' association appointed by the governor from a list of up to three nominees submitted by the Montana coroners' association; and

(g) one representative of the public, appointed by the governor, who is not associated with tribal governments; state government; the fields of historic preservation, archaeology, or anthropology; or the Montana coroners' association.

(2) Members of the board shall serve staggered 2-year terms. A vacancy on the board must be filled in the same manner as the original appointment and only for the unexpired portion of the term.

(3) The board shall:

(a) provide for the establishment and maintenance of a registry of burial sites located in the state;

(b) designate the appropriate member or members of the board or a representative or representatives of the board to conduct a field review upon notification of the discovery of human skeletal remains, a burial site, or burial ~~materials~~ *material*;

(c) assist interested landowners in the development of agreements with the board for the treatment and disposition, with appropriate dignity, of human skeletal remains and burial material;

(d) mediate, upon application of either party, disputes that may arise between a landowner and known descendants that relate to the treatment and disposition of human skeletal remains and burial material;

(e) assume responsibility for final treatment and disposition of human skeletal remains and burial material if the field review recommendation is not accepted by the board's representatives and the landowner;

(f) establish a nonrefundable application fee, not to exceed $50, for a permit for scientific analysis of human skeletal remains or burial material from burial sites as provided by 22-3-806;

(g) issue permits authorizing scientific analysis;

(h) accept grants or real or in-kind donations to carry out the purposes of this part;

(i) adopt rules necessary to administer and enforce the provisions of this part; and

(j) perform any other duties necessary to implement the provisions of this part.

(4) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.

(5) ~~Members~~ *Each member* of the board ~~shall serve without pay but are entitled to reimbursement~~ *is entitled to be paid $50 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed* for travel, meals, and lodging pursuant to 2-18-501 through 2-18-503."

Section 2. Section 22-3-811, MCA, is amended to read:

"22-3-811. Disposition of fees, grants, and donations. There is an account in the state special revenue fund. The board shall deposit any fee, grant, or donation received under 22-3-804 into the account to be used to pay *the board's* expenses ~~for board meetings or expenses incurred in conducting field reviews~~."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved March 20, 2015

CHAPTER NO. 100

[HB 133]

AN ACT AUTHORIZING THE PUBLIC DEFENDER COMMISSION TO AWARD FIXED FEE CONTRACTS IN CERTAIN CASES; AND AMENDING SECTION 47-1-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 47-1-216, MCA, is amended to read:

"47-1-216. Contracted services — rules. (1) The commission shall establish standards for a statewide contracted services program that ensures that contracting for public defender services is done fairly and consistently statewide and within each public defender region and that contracting for appellate defender services is done fairly and consistently statewide.

(2) The chief contract manager shall oversee the contracting program and may not maintain a client caseload.

(3) The office of state public defender and each regional office, in a manner consistent with statewide standards adopted by the commission pursuant to this section, may contract to provide public defender, professional nonattorney, and other personal services necessary to deliver public defender services within each public defender region. The chief appellate defender, in a manner consistent with statewide standards adopted by the commission pursuant to this section, may contract to provide appellate defender, professional nonattorney, and other personal services necessary to deliver appellate defender services in the state. All contracting pursuant to this section is exempt from the Montana Procurement Act as provided in 18-4-132.

(4) *(a)* ~~Contracts~~ *Except as provided in subsection (4)(b), contracts* may not be awarded based solely on the lowest bid or provide compensation to contractors based solely on a fixed fee paid irrespective of the number of cases assigned.

(b) Contracts for legal representation of individuals appearing before the following specialty courts may be awarded based on a fixed fee:

(i) a drug treatment court, as defined in 46-1-1103, including an adult, a juvenile, and a family drug court;

(ii) a mental health treatment court, as defined in 46-1-1203;

(iii) a DUI court, as defined in 61-5-231;

(iv) a court that serves participants with co-occurring disorders, including a mental health treatment court that is combined with a drug treatment court; or

(v) a veterans treatment court.

(c) A contract for legal representation pursuant to subsection (4)(b) may not be awarded without the approval of the commission and without verifiable assurances that effective representation will be provided.

(5) Contracting for public defender and appellate defender services must be done through a competitive process that must, at a minimum, involve the following considerations:

(a) attorney qualifications necessary to provide effective assistance of counsel that meets the standards established by the commission;

(b) attorney qualifications necessary to provide effective assistance of counsel that ~~meet~~ *meets* the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;

(c) attorney access to support services, such as paralegal and investigator services;

(d) attorney caseload, including the amount of private practice engaged in outside the contract;

(e) reporting protocols and caseload monitoring processes;

(f) a process for the supervision and evaluation of performance;

(g) a process for conflict resolution; and

(h) continuing education requirements in accordance with standards set by the commission.

(6) The chief public defender, deputy public defenders, and the chief appellate defender shall provide for contract oversight and enforcement to ensure compliance with established standards.

(7) The commission shall adopt rules to establish reasonable compensation for attorneys contracted to provide public defender and appellate defender services and for others contracted to provide nonattorney services.

(8) Contract attorneys may not take any money or benefit from an appointed client or from anyone for the benefit of the appointed client.

(9) The commission shall limit the number of contract attorneys so that all contracted attorneys may be meaningfully evaluated.

(10) The commission shall implement rules requiring evaluation of every contract attorney on a biennial basis by the chief contract manager based on written evaluation criteria."

Approved March 20, 2015

CHAPTER NO. 101

[HB 187]

AN ACT CLARIFYING LAWS PERTAINING TO THE ASSIGNMENT OF ROAD AND STREET ADDRESSES; SPECIFYING THAT COUNTIES MAY DESIGNATE STREET NAMES AND ADDRESSES IN UNINCORPORATED AREAS; AMENDING SECTION 7-14-2101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-2101, MCA, is amended to read:

"7-14-2101. General powers of county relating to roads and bridges — definitions. (1) The board of county commissioners, under the limitations and restrictions that are prescribed by law, may:

(a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, and management of the county roads and bridges within the county as provided by law;

(b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage, and improve county roads and bridges in adjacent counties, wholly or in part as agreed upon between the boards of the counties concerned;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, management, and improvement of county roads and bridges in adjacent counties or shared jointly with other counties, as agreed upon between the boards of the counties concerned and as provided by law;

(c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, the state, or the United States;

(ii) subject to 15-10-420, place a joint project in the budget and levy taxes for a joint project as provided by law.

~~(2) Unless the context requires otherwise, for the purposes of this chapter, the following definitions apply:~~

~~(a) "Bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills.~~

~~(b) "County road" means:~~

~~(i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county commissioners in accordance with this title;~~

~~(ii) a road that is dedicated for public use in the county and approved by resolution by a board of county commissioners;~~

~~(iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by resolution as a county road by a board of county commissioners;~~

~~(iv) a road that has been gained by the county in an exchange with the state as provided in 60-4-201; or~~

~~(v) a road that has been the subject of a request under 7-14-2622 and for which a legal route has been recognized by a district court as provided in 7-14-2622.~~

~~(3)~~*(2)* (a) Following a public hearing, a board of county commissioners may accept by resolution a road that has not previously been considered a county road but that has been laid out, constructed, and maintained with state department of transportation or county funds.

(b) A survey is not required of an existing county road that is accepted by resolution by a board of county commissioners.

(c) A road that is abandoned by the state may be designated as a county road upon the acceptance and approval by resolution of a board of county commissioners.

(3) The board of county commissioners may adopt regulations for unincorporated areas within a county governing:

(a) the assignment of numerical physical addresses except for roads under the jurisdiction of a federal, state, or tribal entity if that entity objects to the assignment; and

(b) the naming of roads except roads under the jurisdiction of a federal, state, or tribal entity unless that entity consents to the naming.

(4) Unless the context requires otherwise, for the purposes of this chapter, the following definitions apply:

(a) "Bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills.

(b) "County road" means:

(i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county commissioners in accordance with this title;

(ii) a road that is dedicated for public use in the county and approved by resolution by a board of county commissioners;

(iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by resolution as a county road by a board of county commissioners;

(iv) a road that has been gained by the county in an exchange with the state as provided in 60-4-201; or

(v) a road that has been the subject of a request under 7-14-2622 and for which a legal route has been recognized by a district court as provided in 7-14-2622."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2015

CHAPTER NO. 102

[HB 265]

AN ACT ALLOWING USE OF ALFALFA SEED ASSESSMENTS, GRANTS, AND GIFTS FOR THE ALFALFA LEAF-CUTTING BEE PROGRAM; AMENDING SECTIONS 80-6-1109, 80-6-1112, 80-11-304, AND 80-11-310, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-6-1109, MCA, is amended to read:

"80-6-1109. Fees to be set by rule — ~~self-supporting program —~~ account established. (1) Fees authorized to be charged by this part must be set by committee rule. The fees must be designed*, when combined with other revenue sources available to the committee,* to reimburse the committee for costs incurred in providing services and carrying out its duties under this part. ~~It is the intent of the legislature that committee activities under this part be self-supporting.~~

(2) There is an account in the state special revenue fund known as the leaf-cutting bee account for use by the committee. ~~Fees~~ *The account is made up of:*

(a) fees collected under this part ~~must be paid into the leaf-cutting bee account~~*;*

(b) money collected as part of the alfalfa seed assessment provided for in 80-11-307 and allocated to the account by the committee; and

(c) any grants, donations, or gifts made to the committee and designated by the committee for the purposes of this part.

(3) The committee may direct the board of investments to invest money from the account pursuant to the provisions of the unified investment program. The income from investments must be credited to the leaf-cutting bee account."

Section 2. Section 80-6-1112, MCA, is amended to read:

"80-6-1112. Funding limitation. (1) The committee shall expend only those funds ~~which are raised by fees under this part~~ *deposited in the special revenue account provided for in 80-6-1109*. In the event that funds are insufficient to finance the costs of services under this part, the committee may reduce services accordingly.

(2) The committee may contract lab services with a qualified person and charge growers at cost on a per-sample basis.

(3) The committee may levy a fee set by committee rule not to exceed 30 cents for each 3,000 holes of nesting material deeper than 3 1/2 inches for the purpose

of administering this part and for the sampling and testing of bees. For nesting material 3 1/2 inches deep or less, the fee may not exceed 16 cents per 2,000 holes of nesting material.

(4) Fees must be based on all nesting materials that are in field use on July 15 of each year. Fees are due on November 1 of each year.

(5) The amount of fees paid must be credited against a grower's cost of sampling and certification.

(6) Certification fees for drilled boards or loose cells may not exceed committee cost."

Section 3. Section 80-11-304, MCA, is amended to read:

"80-11-304. Powers of the committee. The committee may:

(1) provide, through the department of agriculture, for the administration and enforcement of this part;

(2) enter into contracts in the name of the committee;

(3) authorize the purchase of all office equipment or supplies and incur all other reasonable and necessary expenses and obligations required ~~for the proper carrying out of~~ *to carry out* the provisions of this part;

(4) become a member of and purchase membership in trade organizations and subscribe to and purchase trade bulletins, journals, and other trade publications;

(5) plan and conduct a research program to improve the quality of alfalfa seed, develop and improve control measures for disease and pests ~~which~~ *that* attack alfalfa and alfalfa seed pollinators, improve alfalfa growing culture, disseminate ~~such~~ information among the growers and dealers of the state, *financially support the alfalfa leaf-cutting bee program provided for in Title 80, chapter 6, part 11,* and ~~make such~~ *enter into* research contracts and other agreements as ~~may be~~ necessary;

(6) plan and conduct a publicity and sales promotion campaign to increase the sale and use of Montana alfalfa seed and ~~make such~~ *enter into* publicity and sales promotion contracts and other agreements as ~~may be~~ necessary;

(7) in cooperation with the director of the department of agriculture, establish and maintain the executive offices of the committee at any ~~place within~~ *location in* the state~~, which designated place~~. *The location* may be changed at the discretion of the director and the committee~~;~~.

(8) recommend rules and orders to be adopted for the exercise of its power and the performance of its duties, in accordance with the Montana Administrative Procedure Act;

(9) cooperate with any local, state, or national organization or agency, whether voluntary or created by the law of any state or the United States government, engaged in work or activities similar to the work and activities of the committee and enter into contracts or agreements with ~~such~~ *the* organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity, and reciprocal enforcement of these objectives; and

(10) accept grants, donations, and gifts from any source for expenditure for any purpose consistent with *Title 80, chapter 6, part 11, or* this part, ~~which may be~~ *including a purpose* specified as a condition of ~~any~~ *a* grant, donation, or gift."

Section 4. Section 80-11-310, MCA, is amended to read:

"80-11-310. Deposit and disbursement of funds — investment. (1) As soon as possible after receipt, all money received by the department from the

assessment levied under 80-11-307 and all other money received must be deposited in the *alfalfa seed account in the* state special revenue fund.

(2) *(a)* All money referred to in subsection (1) may be appropriated to the committee and may be used only for the payment of expenses incurred in carrying out the provisions of *Title 80, chapter 6, part 11, and* this part.

(b) The committee may transfer money from the account to the alfalfa leaf-cutting bee account provided for in 80-6-1109.

(c) The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121. The costs charged must have a substantial relationship to the cost of services supplied.

(3) Money received under 80-11-312, 80-11-313, and this section that is not immediately required for the purposes of *Title 80, chapter 6, part 11, and* this part must be invested under provisions of the unified investment program established in Title 17, chapter 6, part 2. The income from the investment must be deposited in the alfalfa seed account in the state special revenue fund.

(4) Money received under 80-11-312, 80-11-313, and this section may be appropriated to the committee for the purposes of *Title 80, chapter 6, part 11, and* this part."

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved March 20, 2015

CHAPTER NO. 103

[HB 466]

AN ACT REVISING RESTITUTION LAWS RELATED TO GOVERNMENTAL ENTITIES; REVISING THE DEFINITION OF "VICTIM" TO AUTHORIZE A GOVERNMENTAL ENTITY TO RECOVER COSTS OR LOSSES INCURRED AS A RESULT OF EXTRADITING AN OFFENDER FROM AN OUT-OF-STATE JURISDICTION TO MONTANA; AMENDING SECTION 46-18-243, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-243, MCA, is amended to read:

"46-18-243. Definitions. For purposes of 46-18-241 through 46-18-249, the following definitions apply:

(1) "Pecuniary loss" means:

(a) all special damages, but not general damages, substantiated by evidence in the record, that a person could recover against the offender in a civil action arising out of the facts or events constituting the offender's criminal activities, including without limitation out-of-pocket losses, such as medical expenses, loss of income, expenses reasonably incurred in obtaining ordinary and necessary services that the victim would have performed if not injured, expenses reasonably incurred in attending court proceedings related to the commission of the offense, and reasonable expenses related to funeral and burial or crematory services;

(b) the full replacement cost of property taken, destroyed, harmed, or otherwise devalued as a result of the offender's criminal conduct;

(c) future medical expenses that the victim can reasonably be expected to incur as a result of the offender's criminal conduct, including the cost of psychological counseling, therapy, and treatment; and

(d) reasonable out-of-pocket expenses incurred by the victim in filing charges or in cooperating in the investigation and prosecution of the offense.

(2) (a) "Victim" means:

(i) a person who suffers loss of property, bodily injury, or death as a result of:

(A) the commission of an offense;

(B) the good faith effort to prevent the commission of an offense; or

(C) the good faith effort to apprehend a person reasonably suspected of committing an offense;

(ii) the estate of a deceased or incapacitated victim or a member of the immediate family of a homicide victim;

(iii) a governmental entity that*:*

(A) suffers loss of property as a result of the commission of an offense in this state ~~or~~*;*

(B) ~~that~~ incurs costs or losses during the commission or investigation of an escape, as defined in 45-7-306, or during the apprehension or attempted apprehension of the escapee; *or*

(C) incurs costs or losses as result of extraditing an offender from an out-of-state jurisdiction to Montana;

(iv) an insurer or surety with a right of subrogation to the extent it has reimbursed the victim of the offense for pecuniary loss;

(v) the crime victims compensation and assistance program established under Title 53, chapter 9, part 1, to the extent that it has reimbursed a victim for pecuniary loss; and

(vi) any person or entity whom the offender has voluntarily agreed to reimburse as part of a voluntary plea bargain.

(b) Victim does not include a person who is accountable for the crime or accountable for a crime arising from the same transaction."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 20, 2015

CHAPTER NO. 104

[HB 61]

AN ACT GENERALLY REVISING RAILROAD LAWS; UPDATING RAILROAD LAWS TO COMPLY WITH FEDERAL PREEMPTION OF STATE REGULATION OF RAILROADS; ELIMINATING CERTAIN PUBLIC SERVICE COMMISSION AUTHORITY OVER FREIGHT AND PASSENGER RAIL SERVICE; ELIMINATING CERTAIN RAILROAD REQUIREMENTS RELATED TO THE TRANSPORTATION OF PERSONS, PROPERTY, OR BOTH; ELIMINATING CERTAIN REQUIREMENTS RELATED TO RAILROAD EQUIPMENT; ELIMINATING COMMISSION AUTHORITY OVER RAILROAD RATES; ELIMINATING RAILROAD CORPORATION REQUIREMENTS; ELIMINATING REQUIREMENTS RELATED TO LOADING PLATFORMS AND SPURS; ELIMINATING CERTAIN RAILROAD EMPLOYEE PROTECTIONS RELATED TO RAILROAD CLOSURES; UPDATING FEDERAL REFERENCES TO RAILROAD REGULATIONS; AMENDING SECTIONS 10-3-1309, 15-6-227, 25-2-122, 69-12-209, 69-14-102, 69-14-111, 69-14-252, AND 69-14-1102, MCA; REPEALING SECTIONS 69-14-101, 69-14-112, 69-14-113, 69-14-114,

69-14-115, 69-14-116, 69-14-117, 69-14-118, 69-14-120, 69-14-131, 69-14-132, 69-14-133, 69-14-134, 69-14-135, 69-14-137, 69-14-201, 69-14-202, 69-14-203, 69-14-204, 69-14-205, 69-14-206, 69-14-207, 69-14-208, 69-14-209, 69-14-210, 69-14-211, 69-14-212, 69-14-213, 69-14-214, 69-14-215, 69-14-216, 69-14-231, 69-14-232, 69-14-233, 69-14-234, 69-14-235, 69-14-236, 69-14-237, 69-14-238, 69-14-321, 69-14-322, 69-14-401, 69-14-402, 69-14-501, 69-14-502, 69-14-503, 69-14-504, 69-14-505, 69-14-506, 69-14-507, 69-14-508, 69-14-509, 69-14-510, 69-14-511, 69-14-512, 69-14-513, 69-14-514, 69-14-515, 69-14-531, 69-14-532, 69-14-533, 69-14-534, 69-14-535, 69-14-536, 69-14-537, 69-14-538, 69-14-539, 69-14-551, 69-14-552, 69-14-553, 69-14-554, 69-14-555, 69-14-556, 69-14-557, 69-14-558, 69-14-559, 69-14-560, 69-14-561, 69-14-562, 69-14-563, 69-14-801, 69-14-803, 69-14-804, 69-14-805, 69-14-811, 69-14-812, 69-14-813, 69-14-814, AND 69-14-1001, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Violations of railroad laws — penalties. (1) If a railroad violates this chapter, fails or refuses to perform duties in accordance with this chapter, or fails, neglects, or refuses to act in accordance with commission requirements or orders, the railroad, upon conviction in a court of competent jurisdiction, shall be fined not less than $100 and not more than $1,000 for each violation, failure, or refusal.

(2) The commission shall recover the fine in a civil action in a court of competent jurisdiction. Each day's violation, failure, or refusal is a separate offense subject to penalty in accordance with subsection (1).

(3) Enforcement of violations in this chapter is limited by 49 U.S.C. 20113.

Section 2. Section 10-3-1309, MCA, is amended to read:

"10-3-1309. Responsibilities of public service commission — inspection of rails and trains — agreements with neighboring states and provinces — rulemaking. (1) After receiving notification from the disaster and emergency services division that high-level radioactive waste or transuranic waste will be shipped by railroad through the state, the public service commission shall establish a plan for inspecting the rails and the trains, as authorized in Title 69, chapter 14, ~~part 2,~~ that will be involved in the transportation of the waste. The plan must include but is not limited to:

(a) coordination with the federal railroad administration on track and rolling stock inspections;

(b) inspection and approval by a federally certified inspector no later than 1 week prior to shipment; and

(c) a requirement that trains carrying radioactive waste or transuranic waste may not travel at greater than the speed required by federal regulations.

(2) The public service commission may enter into reciprocal agreements with adjacent states and bordering Canadian provinces that Montana's inspectors may inspect trains while they are stopped in those states or provinces before they cross the Montana border.

(3) The public service commission shall, in cooperation with the department of transportation, the disaster and emergency services division, and the highway patrol, establish rules to carry out the provisions of this part. The rules must address:

(a) the process by which local authorities will be notified when a motor carrier or a train carrying high-level radioactive waste or transuranic waste is approaching their jurisdictions;

(b) which local authorities will receive notification;

(c) the process by which local governments and local emergency response entities may apply for and receive training and reimbursement money from the radioactive waste transportation monitoring, emergency response, and training account, as provided in 10-3-1304;

(d) the criteria for qualifying to receive money from the account;

(e) acceptable means for monitoring a train that is carrying high-level radioactive waste or transuranic waste; and

(f) other processes or procedures that the public service commission, the department of transportation, the disaster and emergency services division, and the highway patrol determine are necessary to efficiently carry out the provisions of this part and to ensure the safe transportation of high-level radioactive waste or transuranic waste through Montana."

Section 3. Section 15-6-227, MCA, is amended to read:

"15-6-227. Property on railroad land leased by nonprofit organizations. (1) A building and appurtenant land or just the appurtenant land, not exceeding 2.5 acres, owned by a railroad as defined in ~~69-14-101~~ *69-14-102* and leased for less than $100 a year to a nonprofit organization exempt from taxation under section 26 U.S.C. 501(c)(3) or to a government entity is exempt from property taxation if:

(a) the building was constructed on a railroad right-of-way by a railroad prior to the year 2000; and

(b) the property is directly used for purely public charitable purposes.

(2) A building and land exempted under this section are subject to fees and assessments for services and special improvements that are collected with property taxes."

Section 4. Section 25-2-122, MCA, is amended to read:

"25-2-122. Torts. (1) Except as provided in subsections (2) through (4), the proper place of trial for a tort action is:

(a) the county in which the defendants or any of them reside at the commencement of the action; or

(b) the county in which the tort was committed. If the tort is interrelated with and dependent upon a claim for breach of contract, the tort was committed, for the purpose of determining the proper place of trial, in the county in which the contract was to be performed.

(2) Except as provided in subsection (4), if the defendant is a corporation incorporated in a state other than Montana, the proper place of trial for a tort action is:

(a) the county in which the tort was committed;

(b) the county in which the plaintiff resides; or

(c) the county in which the corporation's resident agent is located, as required by law.

(3) Except as provided in subsection (4), if the defendant is a resident of a state other than Montana, the proper place of trial for a tort action is:

(a) the county in which the tort was committed; or

(b) the county in which the plaintiff resides.

(4) If the defendant is a railroad, as defined in ~~69-14-101~~ *69-14-102*, and the plaintiff is a Montana resident, the proper place of trial of a claim subject to the federal Employers' Liability Act, 45 U.S.C. 51, et seq., is any county in which the railroad does business."

Section 5. Section 69-12-209, MCA, is amended to read:

"69-12-209. Enforcement procedures. (1) Orders and final determinations of the commission in all proceedings pursuant to the provisions of this chapter ~~shall~~ *must* be enforced in the manner provided for ~~the enforcement of orders of~~ *by* the commission ~~by the provisions of parts 1, 3, 4, and 8 of chapter 14~~ *in accordance with Title 69, chapter 14, part 1*.

(2) If any motor carrier ~~shall operate in violation of~~ *violates* the provisions of this chapter or ~~shall fail or neglect~~ *fails or neglects* to obey ~~any lawful order of the~~ *a* commission *order*, the commission or any party injured may apply to any court of competent jurisdiction, in any county where ~~such~~ *the* motor carrier is engaged in business, for the enforcement of this chapter or ~~such~~ *the* order. The court shall enforce ~~obedience thereto~~ *the provisions of this chapter or commission orders* by writ of injunction or other proper process, mandatory or otherwise, to restrain ~~such~~ *the* carrier or its officers, agents, employees, or representatives from further violation of ~~this~~ *the requirements of this* chapter or ~~such~~ *the* order or to ~~enjoin upon it or them obedience to the same~~ *require the carrier or its officers, agents, employees, or representatives to obey the requirements of this chapter or the order*."

Section 6. Section 69-14-102, MCA, is amended to read:

"69-14-102. Application — *definition.* ~~This~~ *(1) In accordance with the commission's authority pursuant to 69-14-111, this* chapter applies to all persons, firms, or companies, incorporated or otherwise, that do business as common carriers on any of the lines of railroad in this state.

(2) As used in this chapter, "railroad" means a corporation, company, or individual owning or operating a railroad in whole or in part in this state. The term also includes express companies, sleeping-car companies, and a rail authority established under Title 7, chapter 14, part 16."

Section 7. Section 69-14-111, MCA, is amended to read:

"69-14-111. General supervision of railroads. *(1)* The commission shall ~~have the general supervision of all railroads subject to the provisions of this chapter~~ *supervise railroads subject to the provisions of this chapter.*

(2) The commission may:

(a) adopt or enforce regulations and orders related to railroad safety or security in accordance with 49 U.S.C. 20106;

(b) bring civil action in a district court for violations of federal railroad safety regulations in accordance with 49 U.S.C. 20113; and

(c) participate in investigative and surveillance activities in accordance with 49 U.S.C. 20105."

Section 8. Section 69-14-252, MCA, is amended to read:

"69-14-252. Accident reports. ~~Every~~ *A* railroad company operating any line of railroad within this state shall promptly upon the occurrence of any accident ~~mentioned in 69-14-112(2)~~ report the ~~same~~ *accident* to the commission. ~~In the~~ *The* report ~~shall be stated~~ *must include* the time and place of the accident, the names of ~~the~~ *any* persons killed or injured, and the value of any property destroyed."

Section 9. Section 69-14-1102, MCA, is amended to read:

"69-14-1102. Conditions for transfer of line of railroad. Thirty days prior to filing with the ~~interstate commerce commission~~ *federal surface transportation board* of an application to purchase, sell, or transfer any section of a line of railroad, the seller and buyer shall:

(1) file a notice of intent and other information, as described in 69-14-1103, with the attorney general and the commission; and

(2) require representatives to attend meetings, upon reasonable notice, with the attorney general and the commission to respond to questions and requests for information on the proposed transaction directly related to the requirements of 69-14-1103."

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

69-14-101. Definitions.
69-14-112. Investigatory authority.
69-14-113. Attendance and examination of witnesses.
69-14-114. Investigation of existing rules.
69-14-115. Investigation, enforcement, and report concerning railroad safety laws.
69-14-116. General protection of health and safety on railroads — rear-end telemetry systems — exemption for a caboose-equipped train.
69-14-117. Provision of adequate accommodations and service.
69-14-118. Maintenance of stations where several rail lines come together.
69-14-120. Violations of provisions relating to rails coming together.
69-14-131. Enforcement duties of commission.
69-14-132. Legal assistance for commission.
69-14-133. Collection and disposition of penalties and forfeitures.
69-14-134. Court enforcement of commission actions.
69-14-135. General right to supreme court review.
69-14-137. Violations.
69-14-201. General duties of railroad corporation.
69-14-202. Duty to furnish shipping and passenger facilities.
69-14-203. Posting of information concerning train schedules.
69-14-204. Effect of refusal to accept passengers or property.
69-14-205. Accommodations for and care to be taken of passengers.
69-14-206. Rules for fare and conduct of passengers.
69-14-207. Expulsion of passengers refusing to pay fare.
69-14-208. Officers and employees of corporation to wear badges.
69-14-209. Issuance of passenger tickets.
69-14-210. Baggage checks.
69-14-211. Certificate of authority for ticket agents.
69-14-212. Unlawful sale of tickets.
69-14-213. Redemption of unused tickets.
69-14-214. Penalty for failure to redeem ticket.
69-14-215. Issuance of bills of lading by railroad station agents — penalty.
69-14-216. Restriction on contractual time limitations for notification of injury to transported livestock.
69-14-231. Brake equipment.
69-14-232. Size and equipment of caboose.
69-14-233. Failure of caboose equipment or maintenance.
69-14-234. Authorization for exemption from caboose provisions.

69-14-235. Application of caboose provisions.
69-14-236. Headlights and speedometers for locomotives.
69-14-237. Locomotive engines and electric motors to be marked with identifying numbers.
69-14-238. Equipment for track motor cars.
69-14-321. Complaints of unjust rate discrimination.
69-14-322. Actions to recover excess charges.
69-14-401. Court review of commission actions.
69-14-402. Lawsuit to determine reasonableness of commission actions.
69-14-501. Organization of railroad corporation.
69-14-502. Organization of board of directors.
69-14-503. Capital stock of railroad corporations.
69-14-504. Payment for stock in installments.
69-14-505. Procedure in case of delinquency in payment of installments.
69-14-506. Increase of capital stock.
69-14-507. Authorization to issue securities.
69-14-508. Amendment of certificate of incorporation.
69-14-509. Record of amendment.
69-14-510. Additional amendments permitted.
69-14-511. Authorization to consolidate railroad corporations.
69-14-512. Procedure to consolidate.
69-14-513. Lease or purchase of other railroads.
69-14-514. Interrailroad business arrangements and out-of-state operations.
69-14-515. Acceptance of federal laws by railroad.
69-14-531. Authorization to operate railroad.
69-14-532. Authority to plan, lay out, and construct rail lines.
69-14-533. Authority to enter land for survey purposes.
69-14-534. Change of location or grade.
69-14-535. Crossing of roads and streams.
69-14-536. Extension of rail lines into Montana.
69-14-537. Annual work and completion of road.
69-14-538. Railroads on Indian and military reservations.
69-14-539. Connections between lines of different railroads.
69-14-551. Establishment of principal office.
69-14-552. Authority to hold and transfer property.
69-14-553. Acquisition and transfer of real estate.
69-14-554. Right-of-way through canyons.
69-14-555. Judgment liens against railroad property.
69-14-556. Authorization to borrow money and secure payment.
69-14-557. State not liable for obligations of railroad.
69-14-558. Transportation of passengers and property.
69-14-559. Maintenance of hotels in parks and along lines.
69-14-560. Regulation of rates of railroad corporations.
69-14-561. Regulation of railroad equipment.

69-14-562. Regulation of safety on railroads.
69-14-563. Construction and operation of telegraph line.
69-14-801. Maintenance of loading platform by railroad.
69-14-803. Enlargement of platform.
69-14-804. Erection of scales.
69-14-805. Violations of loading platform provisions.
69-14-811. Industrial and commercial spurs.
69-14-812. Power of commission with respect to sidetracks, stockyards, and chutes.
69-14-813. Removal of sidetrack, spur track, or loading facility.
69-14-814. Violations of sidetrack, spur track, or loading facility provisions.
69-14-1001. Protection of employees affected by closure, consolidation, or centralization of station or other facility.

Section 11. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 14, part 1, and the provisions of Title 69, chapter 14, part 1, apply to [section 1].

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 23, 2015

CHAPTER NO. 105

[HB 212]

AN ACT CLARIFYING THE TYPES OF FISH AND GAME HARVEST PROTECTED UNDER THE MONTANA CONSTITUTION; PROVIDING LEGISLATIVE INTENT; REVISING DEFINITIONS; AND AMENDING SECTIONS 87-2-101 AND 87-6-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Right to harvest — legislative intent. The legislature, mindful of its constitutional obligations under Article II, section 3, of the Montana constitution protecting the inalienable rights of a person to pursue life's basic necessities, enjoy the person's life and liberties, and pursue happiness in all lawful ways, and Article IX, section 7, of the Montana constitution protecting the opportunity for a person to harvest wild fish and wild game animals while not diminishing other private rights, has enacted the laws of this title pertaining to the lawful means of hunting, fishing, and trapping, as defined in 87-2-101 and 87-6-101, as adequate remedies for the preservation of the harvest heritage of the individual citizens of this state.

Section 2. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take *or harvest fish* or the act of a person possessing any instrument, article, or substance for the purpose of taking *or harvesting* fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(6) "Hunt" means to pursue, shoot, wound, *take, harvest,* kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, *taking, harvesting,* killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take *or harvest* by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(9) "Open season" means the time during which game birds, game fish, game animals, and fur-bearing animals may be lawfully taken.

(10) "Person" means an individual, association, partnership, or corporation.

(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

(12) "Trap" means to take or *harvest or* participate in the taking *or harvesting* of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 3. Section 87-6-101, MCA, is amended to read:

"87-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take *or harvest* fish or the act of a person possessing any instrument, article, or substance for the purpose of taking *or harvesting* fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, *take, harvest,* kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, *taking, harvesting,* killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take *or harvest* by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(32) "Trap" means to take or *harvest or* participate in the taking *or harvesting* of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(34) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(36) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 1, and the provisions of Title 87, chapter 1, part 1, apply to [section 1].

Approved March 22, 2015

CHAPTER NO. 106

[HB 296]

AN ACT REVISING LAWS RELATED TO COORDINATION OF PUBLIC SAFETY COMMUNICATIONS; CREATING A MUTUAL AID FREQUENCY PROGRAM FOR LAND MOBILE RADIO; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP A MANUAL CONCERNING MUTUAL AID FREQUENCIES FOR LAND MOBILE RADIO; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO COORDINATE CERTAIN PUBLIC SAFETY COMMUNICATIONS; AMENDING SECTIONS 2-17-506, 2-17-512, AND 2-17-543, MCA; AND REPEALING SECTIONS 2-17-541 AND 2-17-542, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Mutual aid frequency program for land mobile radio. The mutual aid frequency program for land mobile radio is designed to provide public and private safety agencies with a set of land mobile radio frequencies and predetermined operational parameters that serve as a basis for initial, on-scene emergency coordination and the resolution of interoperability issues.

Section 2. Mutual aid frequencies manual — land mobile radio. The department shall develop and maintain a manual that includes policies and procedures for the effective and efficient use of mutual aid frequencies for land mobile radio.

Section 3. Section 2-17-506, MCA, is amended to read:

"2-17-506. Definitions. In this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the information technology board established in 2-15-1021.

(2) "Central computer center" means any stand-alone or shared computer and associated equipment, software, facilities, and services administered by the department for use by state agencies.

(3) "Chief information officer" means a person appointed by the director of the department to carry out the duties and responsibilities of the department relating to information technology.

(4) "Data" means any information stored on information technology resources.

(5) "Department" means the department of administration established in 2-15-1001.

(6) "Electronic access system" means a system capable of making data accessible by means of an information technology facility in a voice, video, or electronic data form, including but not limited to the internet.

(7) "Information technology" means hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.

(8) "Private safety agency" has the same meaning as provided in 10-4-101.

(9) "Public safety agency" has the same meaning as provided in 10-4-101.

~~(8)~~*(10)* "State agency" means any entity of the executive branch, including the university system.

~~(9)~~*(11)* "Statewide telecommunications network" means any telecommunications facilities, circuits, equipment, software, and associated contracted services administered by the department for the transmission of voice, video, or electronic data from one device to another."

Section 4. Section 2-17-512, MCA, is amended to read:

"2-17-512. Powers and duties of department. (1) The department is responsible for carrying out the planning and program responsibilities for information technology for state government, except the national guard. The department:

(a) shall encourage and foster the development of new and innovative information technology within state government;

(b) shall promote, coordinate, and approve the development and sharing of shared information technology application software, management systems, and information that provide similar functions for multiple state agencies;

(c) shall cooperate with the office of economic development to promote economic development initiatives based on information technology;

(d) shall establish and enforce a state strategic information technology plan as provided for in 2-17-521;

(e) shall establish and enforce statewide information technology policies and standards;

(f) shall review and approve state agency information technology plans provided for in 2-17-523;

(g) shall coordinate with the office of budget and program planning to evaluate budget requests that include information technology resources. The department shall make recommendations to the office of budget and program planning for the approval or disapproval of information technology budget requests, including an estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or capitalized, based on state accounting policy established by the department. An unfavorable recommendation must be based on a determination that the request is not provided for in the approved agency information technology plan provided for in 2-17-523.

(h) shall staff the information technology board provided for in 2-15-1021;

(i) shall fund the administrative costs of the information technology board provided for in 2-15-1021;

(j) shall review the use of information technology resources for all state agencies;

(k) shall review and approve state agency specifications and procurement methods for the acquisition of information technology resources;

(l) shall review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities;

(m) shall operate and maintain a central computer center for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(n) shall operate and maintain a statewide telecommunications network for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(o) shall ensure that the statewide telecommunications network is properly maintained. The department may establish a centralized maintenance program for the statewide telecommunications network.

(p) shall coordinate public safety communications on behalf of ~~all state~~ *public and private safety* agencies as provided for in ~~2-17-541 through~~ 2-17-543*, [section 1], and [section 2]*;

(q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;

(r) shall provide electronic access to information and services of the state as provided for in 2-17-532;

(s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to state and interstate information technology matters;

(t) shall establish rates and other charges for services provided by the department;

(u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations for any purpose of this section;

(v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment of the department, the disposal best promotes the purposes for which the department is established;

(w) shall implement this part and all other laws for the use of information technology in state government;

(x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided in 5-11-210 on the information technology activities of the department; and

(y) shall represent the state with public and private entities on matters of information technology.

(2) If it is in the state's best interest, the department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of this section.

(3) The director of the department shall appoint the chief information officer to assist in carrying out the department's information technology duties."

Section 5. Section 2-17-543, MCA, is amended to read:

"2-17-543. Rulemaking authority. (1) The department may adopt rules to implement the ~~land mobile public safety radio frequency utilization plan~~ *mutual aid frequency manual* provided for in ~~2-17-542~~ *[section 2]*.

(2) The department shall obtain input from all ~~state and local~~ *public and private safety agency* users of ~~public safety radio services~~ *mutual aid frequencies for land mobile radio*."

Section 6. Repealer. The following sections of the Montana Code Annotated are repealed:

2-17-541. Legislative recognition — FCC contact agency.

2-17-542. Land mobile public safety radio frequency utilization plan.

Section 7. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 17, part 5, and the provisions of Title 2, chapter 17, part 5, apply to [sections 1 and 2].

Approved March 23, 2015

CHAPTER NO. 107

[SB 49]

AN ACT EXPANDING WHERE A PETROLEUM MIXING ZONE MAY BE USED; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-11-307 AND 75-11-508, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-11-307, MCA, is amended to read:

"75-11-307. Reimbursement for expenses caused by release. (1) Subject to the availability of money from the fund under subsection (6), an owner or operator who is eligible under 75-11-308 and who complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

(a) corrective action costs as required by a department-approved corrective action plan, except that if the corrective action plan:

(i) addresses releases of substances other than petroleum products from an eligible petroleum storage tank, the board may reimburse only the costs that would have reasonably been incurred if the only release at the site was the release of the petroleum or petroleum products from the eligible petroleum storage tank; or

(ii) includes the establishment of a petroleum mixing zone, as defined in 75-11-503, the board may reimburse the cost of an easement established pursuant to 75-11-508~~(3)(a)~~; and

(b) compensation paid to third parties for bodily injury or property damage. The board may not reimburse for property damage until the corrective action is completed.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, the operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating oil for consumptive use on the premises where it is stored or for a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4);

(h) costs for which an owner or operator has received reimbursement or payment from an insurer or other third party; and

(i) expenses for work completed by or on behalf of the owner or operator more than 5 years prior to the owner's or operator's request for reimbursement. This limitation does not apply to claims for compensation paid to third parties for bodily injury or property damage. The running of the 5-year limitation period is suspended by an appeal of the board's denial of eligibility for reimbursement. If a written request for hearing is filed under 75-11-309, the suspension of the 5-year limitation period is effective from the date of the board's initial eligibility denial to the date on which the initial eligibility denial is overturned or reversed by the board, a district court, or the state supreme court, whichever occurs latest. The board may grant reasonable extensions of this limitation period if it is shown that the need for the extension is not due to the negligence of the owner or operator or agent of the owner or operator.

(3) An owner or operator may designate a person as an agent to receive the reimbursement if the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection (6):

(a) for releases eligible for reimbursement from the fund that are discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or operator for:

(i) 100% of the eligible costs, up to a maximum total reimbursement of $500,000, for properly designed and installed double-walled tank system releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first $10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $495,000 for all other releases; and

(b) for all other releases eligible for reimbursement from the fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:

(i) 100% of the eligible costs, up to a maximum total reimbursement of $1 million, for properly designed and installed double-walled tank system releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first $35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $982,500 for all other releases.

(5) If an insurer pays or reimburses an owner or operator for costs that qualify as eligible costs under subsection (1), the costs paid or reimbursed by the insurer:

(a) are considered to have been paid by the owner or operator toward satisfaction of the 50% share requirements of subsection (4)(a)(ii) or (4)(b)(ii) if the owner or operator receives the payment or reimbursement before applying for reimbursement from the board;

(b) are not reimbursable from the fund; and

(c) except for the amount considered to have been paid by the owner or operator pursuant to subsection (5)(a), are considered to have been reimbursed from the fund for purposes of determining when the board has paid the maximum amount payable from the fund under subsection (4)(a)(ii) or (4)(b)(ii).

(6) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

Section 2. Section 75-11-508, MCA, is amended to read:

"75-11-508. Corrective action — petroleum mixing zones. (1) A corrective action plan prepared pursuant to 75-11-309 may include the use of a petroleum mixing zone, as defined in 75-11-503, in conjunction with the final remediation and resolution of a petroleum release.

(2) If a petroleum mixing zone is included in a corrective action plan, it may be established only when:

(a) all source material has been removed to the maximum extent practicable;

(b) the extent of petroleum contamination has been defined;

(c) natural breakdown or attenuation is occurring within the plume; and

(d) no further corrective action is reasonably required at the site.

(3) The boundary of a petroleum mixing zone established in accordance with this section must be contained within the~~:~~

~~(a)~~ boundary of the property on which the petroleum release originated unless a recorded easement*, a restrictive covenant, or another institutional control approved by the department* on an adjoining property allows the petroleum mixing zone to extend onto the adjoining property~~; and~~

~~(b) unconfined aquifer~~.

(4) Monitoring of a petroleum mixing zone may not be required unless there is a unique, overriding, site-specific, impact-related reason to require monitoring.

(5) At the downgradient boundary of a petroleum mixing zone, the concentration of any petroleum constituent, including benzene, may not exceed a water quality standard adopted by the board pursuant to 75-5-301.

(6) If a petroleum mixing zone is established and maintained:

(a) the petroleum release is considered to be resolved;

(b) no further corrective action for the petroleum release is required; and

(c) the department shall issue a no-further-action letter to the owner or operator stating that a petroleum mixing zone has been established for the release and describing any conditions required to maintain the petroleum mixing zone.

(7) A corrective action plan approved by the department pursuant to 75-11-309 may be amended to include a petroleum mixing zone in accordance with this section, including a corrective action plan approved prior to April 15, 2011."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2015

CHAPTER NO. 108

[SB 56]

AN ACT REVISING NOTICE REQUIREMENTS FOR USE OF NAVIGABLE RIVERBEDS; EXTENDING THE AUTHORIZATION OF USE FORM FILING DEADLINE; SPECIFYING CERTAIN NOTICE DATES; AMENDING SECTIONS 77-1-1112 AND 77-1-1114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-1112, MCA, is amended to read:

"77-1-1112. Historic use of navigable riverbeds — authorization required — exemptions. (1) A person using the bed of a navigable river below the low-water mark without written authorization from the department prior to October 1, 2011, who wants to continue use of the bed of a navigable river after October 1, 2011, shall file for authorization of the use on a form prescribed by the department for a lease, license, or easement by July 15, ~~2017~~ *2021*.

(2) A person using the bed of a river below the low-water mark without written authorization from the department who wants to continue use of the bed after the date the river is determined to be a navigable river shall file for authorization of the use on a form prescribed by the department for a lease, license, or easement within 5 years after the date that notice is issued by the department as provided in 77-1-1114.

(3) The application must include:

(a) an application fee of $50;

(b) a notarized affidavit:

(i) demonstrating that the applicant or the applicant's predecessor in interest used the bed of a navigable river and that the use continues;

(ii) describing the acreage covered by the footprint prior to October 1, 2011, or, for applications under subsection (2), the acreage covered by the footprint prior to the date the river was determined to be navigable; and

(iii) demonstrating that the use applied for under this section is the use shown in the evidence provided in subsection (3)(c); and

(c) (i) aerial photographs demonstrating the use to which the application for authorization applies; or

(ii) other evidence of the use to which the application for authorization applies.

(4) The department shall issue the authorization for a lease, license, or easement if:

(a) the applicant provides evidence to satisfy the requirements of subsection (3);

(b) the applicant pays the application fee and the full market value of the footprint acreage;

(c) the department has, if necessary, made a site inspection of the use to which the application for authorization applies;

(d) the authorization is for only the acreage of the footprint historically used by the applicant or the applicant's predecessor in interest; and

(e) the authorization is approved by the board.

(5) Proceeds from the application fee must be deposited in the account in 77-1-1113 and must be used by the department to administer the provisions of this section.

(6) The full market value collected pursuant to subsection (4)(b) must be deposited in the appropriate trust fund established for receipt of income from the land over which an authorized use is granted.

(7) Issuance of an authorization pursuant to this section is exempt from the requirements of Title 22, chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2.

(8) The department shall waive the survey requirements of 77-2-102 if the department determines that there is sufficient information available to define the boundaries of the proposed use for the purposes of recording the easement or issuing a license or lease.

(9) The requirements of this section do not apply to footprints:

(a) related to hunting, fishing, or trapping;

(b) that existed prior to November 8, 1889;

(c) for which the applicant can show an easement obtained from a state agency prior to October 1, 2011, or prior to the date the river was determined to be a navigable river; or

(d) associated with a power site regulated pursuant to Title 77, chapter 4, part 2.

(10) A person using the bed of a navigable river who is subject to this section may continue to use the bed of the navigable river for that purpose while applying for a lease, license, or easement or until the applicable timeframe for obtaining a lease, license, or easement expires. The state may not impede access to a footprint or use of a footprint during the applicable timeframe or after a lease, license, or easement is obtained.

(11) The provisions of this section do not restrict the power of the board to seek adjudication of title pursuant to 77-1-105."

Section 2. Section 77-1-1114, MCA, is amended to read:

"77-1-1114. Notice required. (1) ~~The~~ *Before July 1, 2016, the* department shall provide notice of the requirements of this part to owners of property adjacent to rivers that ~~are~~ *were* navigable rivers on October 1, 2011, and provide notice pursuant to subsection (3).

(2) For a river determined to be a navigable river after October 1, 2011, the department shall provide notice of the requirements of this part to owners of property adjacent to the navigable river *within 6 months of the determination that the river is navigable*. The 5-year period pursuant to 77-1-1112 begins when the department issues this notice and publishes the notice required in subsection (3) of this section.

(3) The department shall publish notice of navigable rivers and the requirements of this part twice in a newspaper of general circulation in the area of the navigable river."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2015

CHAPTER NO. 109

[SB 111]

AN ACT CLARIFYING THAT AN OWNER OR OPERATOR OF A WIND GENERATION FACILITY IS SUBJECT TO CERTAIN IMPACT FEES EACH YEAR FOR THE FIRST 3 YEARS AFTER CONSTRUCTION OF THE FACILITY; AMENDING SECTION 15-24-3004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-24-3004, MCA, is amended to read:

"15-24-3004. Wind generation facility impact fee for local governmental units and school districts. (1) An owner or operator of a wind generation facility used for a commercial purpose is subject to an initial local governmental and local school impact fee *to be paid* for *each year of* the first 3 years after construction of the wind generation facility begins. The *annual* impact fee may not exceed 0.5% of the total cost of constructing the wind generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in 15-24-3005(2) and (3).

(b) Local governmental units may enter into an interlocal agreement as provided in 15-24-3005(4).

(3) (a) For the purposes of this section, "wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(b) The term does not include a wind generation facility used for noncommercial purposes or exclusively for agricultural purposes."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2015

CHAPTER NO. 110

[HB 88]

AN ACT GENERALLY REVISING LAWS REGARDING SEX OFFENDER REGISTRATION; REQUIRING THE OFFENDER TO PROVIDE E-MAIL ADDRESSES AND SOCIAL MEDIA SCREEN NAMES WHEN REGISTERING; REQUIRING OFFENDERS CONVICTED IN OTHER JURISDICTIONS THAT DO NOT DO A RISK LEVEL ASSESSMENT TO UNDERGO A PSYCHOSEXUAL EVALUATION; AND AMENDING SECTIONS 46-18-111, 46-18-222, 46-23-502, 46-23-504, AND 46-23-509, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation — when required. (1) (a) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under 45-5-310, 45-5-311, 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), 45-5-625, 45-5-627, or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, ~~the investigation must include~~ *the investigation must include* a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219. ~~The evaluation must be completed by~~ *The evaluation must be completed by* a ~~sex offender therapist~~ *sexual offender evaluator* who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. *The district court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation.*

(c) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a

recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(d) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a $50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5)."

Section 2. Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility. Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, the restrictions on deferred imposition and suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility prescribed by 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4) do not apply if:

(1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced;

(2) the offender's mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection.

(3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;

(4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor;

(5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense; or

(6) the offense was committed under 45-5-310, 45-5-311, 45-5-502(3), 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4) and the judge determines, based on the findings contained in a ~~sexual offender~~ *psychosexual* evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination."

Section 3. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct ~~sexual offender and sexually violent predator~~ *psychosexual* evaluations *of sexual offenders and sexually violent predators*.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18

years of age and the offender is not a parent of the victim), 45-5-310, 45-5-311, 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is ~~under~~ *less than* 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is ~~under~~ *less than* 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for, a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

Section 4. Section 46-23-504, MCA, is amended to read:

"46-23-504. Persons required to register — procedure. (1) Except as provided in 41-5-1513, a sexual or violent offender:

(a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department;

(b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if sentenced to confinement or sentenced to the department and placed in confinement by the department;

(c) shall register within 3 business days of entering a county of this state for the purpose of residing or setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a calendar year; and

(d) who is a transient shall register within 3 business days of entering a county of this state.

(2) Registration under subsection (1)(a), (1)(c), or (1)(d) must be with the appropriate registration agency. If an offender registers with a police department, the department shall notify the sheriff's office of the county in which the municipality is located of the registration. The probation officer having supervision over an offender required to register under subsection (1)(a)

shall verify the offender's registration status with the appropriate registration agency.

(3) At the time of registering, the offender shall sign a statement in writing giving the information required by subsections (3)(a) through ~~(3)(g)~~ *(3)(h)* and any other information required by the department of justice. The registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, photograph the offender, and obtain a DNA sample from the offender. Within 3 days, the registration agency shall send copies of the statement, fingerprints, and photographs to the department of justice. The registration agency shall send the DNA sample to the department of justice for analysis and entry of the DNA record into the DNA identification index. The registration agency shall require an offender given a level 2 or level 3 designation to appear before the registration agency for a new photograph every year. The information collected from the offender at the time of registration must include ~~the~~:

(a) *the* name of the offender and any aliases used by the offender;

(b) *the* offender's social security number;

(c) *the* residence information required by subsection (4);

(d) *the* name and address of any business or other place where the offender is or will be an employee;

(e) *the* name and address of any school where the offender will be a student;

(f) *the* offender's driver's license number; ~~and~~

(g) *the* description and license number of any motor vehicle owned or operated by the offender~~.~~*; and*

(h) all of the offender's e-mail addresses and social media screen names.

(4) (a) If, at the time of registration, the offender regularly resides in more than one county or municipality, the offender shall register with the registration agency of each county or municipality in which the offender resides. If an offender resides in more than one location within the same county or municipality, the registration agency ~~may~~ *shall* require the offender to provide all of the locations where the offender regularly resides and to designate one of them as the offender's primary residence.

(b) Registration of more than one residence pursuant to this section is an exception from the single residence rule provided in 1-1-215.

(5) A transient shall report monthly, in person, to the registration agency with which the transient registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency and during the normal business hours of that agency. On that day, the transient shall provide the registration agency with the information listed in subsections (3)(a) through ~~(3)(g)~~ *(3)(h)*. The registration agency to which the transient reports may also require the transient to provide the locations where the transient stayed during the previous 30 days and may stay during the next 30 days.

(6) (a) The department of justice shall mail a registration verification form:

(i) each 90 days to an offender designated as a level 3 offender under 46-23-509;

(ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

(iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509.

(b) If the offender is a transient, the department of justice shall mail the offender's registration verification form to the registration agency with which the offender last registered.

(c) The form must require the offender's notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the registration agency where the offender last registered or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county or municipality in which the offender is located. A sexual offender shall return the form to the appropriate registration agency in person, and at the time that the sexual offender returns the registration verification form, the registration agency shall take a photograph of the offender and collect a DNA sample if one has not already been collected. The registration agency shall send the DNA sample to the department of justice for analysis and entry into the DNA identification index.

(7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a copy of the form and most recent photograph to the department of justice.

(8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund.

(9) The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."

Section 5. Section 46-23-509, MCA, is amended to read:

"46-23-509. Sexual offender evaluations and designations — rulemaking authority. (1) The department shall adopt rules for the qualification of sexual offender evaluators who conduct ~~sexual offender and sexually violent predator~~ *psychosexual* evaluations *of sexual offenders and sexually violent predators* and for determinations by sexual offender evaluators of the risk of a repeat offense and the threat that an offender poses to the public safety.

(2) Prior to sentencing of a person convicted of a sexual offense, the department or a sexual offender evaluator shall provide the court with a ~~sexual offender~~ *psychosexual* evaluation report recommending one of the following levels of designation for the offender:

(a) level 1, the risk of a repeat sexual offense is low;

(b) level 2, the risk of a repeat sexual offense is moderate;

(c) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator.

(3) Upon sentencing the offender, the court shall:

(a) review the ~~sexual offender~~ *psychosexual* evaluation report, any statement by a victim, and any statement by the offender;

(b) designate the offender as level 1, 2, or 3; and

(c) designate a level 3 offender as a sexually violent predator.

(4) An offender designated as a level 2 offender or given a level designation by another state, the federal government, or the department under subsection

(6) that is determined by the court to be similar to level 2 may petition the sentencing court or the district court for the judicial district in which the offender resides to change the offender's designation if the offender has enrolled in and successfully completed the treatment phase of either the prison's sexual offender treatment program or of an equivalent program approved by the department. After considering the petition, the court may change the offender's risk level designation if the court finds by clear and convincing evidence that the offender's risk of committing a repeat sexual offense has changed since the time sentence was imposed. The court shall impose one of the three risk levels specified in this section.

(5) If, at the time of sentencing, the sentencing judge did not apply a level designation to a sexual offender who is required to register under this part and who was sentenced prior to October 1, 1997, the department shall designate the offender as level 1, 2, or 3 when the offender is released from confinement.

(6) If an offense is covered by 46-23-502(9)(b), the offender registers under 46-23-504(1)(c), and the offender was given a risk level designation after conviction by another state or the federal government, the department of justice may give the offender the risk level designation assigned by the other state or the federal government. *All offenders convicted in another state or by the federal government who are not currently under the supervision of the department or the youth court and were not given a risk level designation after conviction shall provide to the department of justice all prior risk assessments and psychosexual evaluations done to evaluate the offender's risk to reoffend. Any offender without a risk assessment or psychosexual evaluation shall, at the offender's expense, undergo a psychosexual evaluation with a sexual offender evaluator who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The results of the sex offender evaluation may be requested by the attorney general or a county attorney for purposes of petitioning a district court to assign a risk level designation.*

(7) The lack of a fixed residence is a factor that may be considered by the sentencing court or by the department in determining the risk level to be assigned to an offender pursuant to this section.

(8) Upon obtaining information that indicates that a sexual offender who is required to register under this part does not have a level 1, 2, or 3 designation, the attorney general, the county attorney that prosecuted the offender and obtained a conviction for a sexual offense, or the county attorney for the county in which the offender resides may, at any time, petition the district court that sentenced the offender for a sexual offense or the district court for the judicial district in which the offender resides to designate the offender as level 1, 2, or 3. Upon the filing of the petition, the court may order a ~~sexual offender~~ *psychosexual* evaluation report at the petitioner's expense. The court shall provide the offender with an opportunity for a hearing prior to designating the offender. The petitioner shall provide the offender with notice of the petition and notice of the hearing."

Approved March 24, 2015

CHAPTER NO. 111

[HB 129]

AN ACT PROVIDING THAT A PARENT WHO IS SUBJECT TO A PARENTING PLAN AND WHO INTENDS TO CHANGE RESIDENCE IS RESPONSIBLE FOR FILING THE MOTION TO AMEND THE PARENTING PLAN IF THE PARENTS CANNOT AGREE TO A CHANGE IN THE RESIDENTIAL SCHEDULE; AND AMENDING SECTION 40-4-217, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-217, MCA, is amended to read:

"40-4-217. Notice of intent to move. (1) A parent who intends to change residence shall, unless precluded under 40-4-234, provide written notice to the other parent.

(2) ~~If a parent's change in residence will significantly affect the child's contact with the other parent, notice must be served personally or given by certified mail not less than 30 days before the proposed change in residence and must include a proposed revised residential schedule. Proof of service must be filed with the court that adopted the parenting plan. Failure of the parent who receives notice to respond to the written notice or to seek amendment of the residential schedule pursuant to 40-4-219 within the 30-day period constitutes acceptance of the proposed revised residential schedule.~~

(a) If a parent's change in residence will significantly affect the child's contact with the other parent, the parent who intends to change residence shall, pursuant to 40-4-219, file a motion for amendment of the residential schedule and a proposed revised residential schedule with the court that adopted the residential schedule or the court to which jurisdiction or venue over the child has been transferred. The motion must be served personally or by certified mail on the other parent and served pursuant to the Montana Rules of Civil Procedure on the parent's attorney of record, if the parent has an attorney of record, not less than 30 days before the proposed changed in residence.

(b) The notice pursuant to this subsection (2) is not sufficient unless it contains the following statement: "The relocation of the child may be permitted and the proposed revised residential schedule may be ordered by the court without further proceedings unless within 21 days you file a response and alternate revised residential schedule with the court and serve your response on the person proposing the move and all other persons entitled by the court order to residential time or visitation with the child."

(3) The parent who receives service of a motion to amend the parenting plan pursuant to this section has 21 days after service of the motion to file a response. If the parent receiving notice objects to the proposed revised residential schedule, the responding parent shall include an alternate proposed revised residential schedule with the response. The response must be served as provided for by the Montana Rules of Civil Procedure on the parent proposing to change residence or on the parent's attorney of record if the parent has an attorney of record.

(4) If a parent is properly served with a motion to amend the parenting plan pursuant to this section, failure to file a response within the 21-day period constitutes acceptance of the proposed revised residential schedule.

(5) A person entitled to file an objection to the proposed relocation of the child may file the objection regardless of whether the person has received proper notice."

Approved March 24, 2015

CHAPTER NO. 112

[HB 165]

AN ACT REVISING GRANDPARENT-GRANDCHILD CONTACT LAWS TO ALLOW FOR THE APPOINTMENT OF A GUARDIAN AD LITEM; AND AMENDING SECTION 40-9-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-9-102, MCA, is amended to read:

"40-9-102. Grandparent-grandchild contact. (1) Except as provided in subsection ~~(7)~~ *(8)*, the district court may grant to a grandparent of a child reasonable rights to contact with the child, including but not limited to rights regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title. The department of public health and human services must be given notice of a petition for grandparent-grandchild contact regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title.

(2) Before a court may grant a petition brought pursuant to this section for grandparent-grandchild contact over the objection of a parent whose parental rights have not been terminated, the court shall make a determination as to whether the objecting parent is a fit parent. A determination of fitness and granting of the petition may be made only after a hearing, upon notice as determined by the court. Fitness must be determined on the basis of whether the parent adequately cares for the parent's child.

(3) Grandparent-grandchild contact may be granted over the objection of a parent determined by the court pursuant to subsection (2) to be unfit only if the court also determines by clear and convincing evidence that the contact is in the best interest of the child.

(4) Grandparent-grandchild contact granted under this section over the objections of a fit parent may be granted only upon a finding by the court, based upon clear and convincing evidence, that the contact with the grandparent would be in the best interest of the child and that the presumption in favor of the parent's wishes has been rebutted.

(5) A person may not petition the court under this section more often than once every 2 years unless there has been a significant change in the circumstances of:

(a) the child;

(b) the child's parent, guardian, or custodian; or

(c) the child's grandparent.

(6) The court may appoint an attorney to represent the interests of a child with respect to grandparent-grandchild contact when the interests are not adequately represented by the parties to the proceeding.

(7) The court may appoint a guardian ad litem to represent the best interests of a child with respect to grandparent-grandchild contact.

~~(7)~~*(8)* This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Grandparent-grandchild contact granted under this section terminates upon the adoption of the child by a person other than a stepparent or a grandparent.

~~(8)~~*(9)* A determination pursuant to subsection (2) that a parent is unfit has no effect upon the rights of a parent, other than with regard to

grandparent-grandchild contact if a petition pursuant to this section is granted, unless otherwise ordered by the court."

Approved March 24, 2015

CHAPTER NO. 113

[HB 186]

AN ACT REVISING LAWS RELATED TO PROTECTING VICTIMS OF SEXUAL OFFENSES; REQUIRING A SENTENCING JUDGE AND THE STATE BOARD OF PARDONS AND PAROLE TO ORDER AN OFFENDER TO REFRAIN FROM CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REQUEST A SENTENCING JUDGE TO ADD A CONDITION OF PROBATION THAT ORDERS THE OFFENDER TO REFRAIN FROM CONTACTING A VICTIM OF A SEXUAL OFFENSE OR AN IMMEDIATE FAMILY MEMBER OF THE VICTIM IF REQUESTED BY THE VICTIM OR IMMEDIATE FAMILY MEMBER; REVISING VICTIM NOTIFICATION REQUIREMENTS TO INFORM A VICTIM OF A SEXUAL OFFENSE OF THE VICTIM'S RIGHT TO REQUEST THAT AN OFFENDER BE ORDERED TO REFRAIN FROM CONTACTING THE VICTIM; AND AMENDING SECTIONS 46-18-255, 46-23-215, 46-23-1011, 46-24-203, AND 46-24-212, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-255, MCA, is amended to read:

"46-18-255. Sentence ~~upon~~ *on* conviction — restriction on employment and residency. (1) A judge sentencing a person ~~upon conviction~~ *convicted* of a sexual or violent offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose ~~upon~~ *on* the defendant reasonable employment or occupational prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of further offenses by the defendant.

(2) In addition to any restriction on employment imposed under subsection (1), a judge sentencing a person convicted of a sexual offense involving a minor and designated as a level 3 offender under 46-23-509 shall, as a condition to probation, parole, or deferment or suspension of sentence, impose ~~upon~~ *on* the defendant restrictions on the defendant's residency in the proximity of a private or public elementary or high school, preschool as defined in 20-5-402, licensed day-care center, church, or park maintained by a city, town, or county.

(3) If requested by a victim of a sexual offense committed by the defendant, or if requested by an immediate family member of the victim, the judge sentencing a person convicted of a sexual offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose on the defendant a restriction prohibiting the defendant from directly or indirectly contacting the victim or the immediate family member of the victim. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf."

Section 2. Section 46-23-215, MCA, is amended to read:

"46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board.

(2) *(a)* When a hearing panel issues an order for parole, the order must recite the conditions of parole. If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under 44-6-103 and if the prisoner was convicted of, or was found under 41-5-1502 to have committed, a sexual offense or violent offense ~~as defined in 46-23-502~~.

(b) The board may require the prisoner convicted of a sexual offense to refrain from direct or indirect contact with a victim of the crime or with an immediate family member of the victim. If a victim or an immediate family member requests that the prisoner not contact the victim or immediate family member, the board shall require the prisoner to refrain from contact with the victim or immediate family member. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(c) An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board or a designee may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in 45-7-306. The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board or a designee.

(4) For the purposes of this section, "sexual offense" and "violent offense" have the meanings provided in 46-23-502."

Section 3. Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-310, 45-5-311, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

~~(2)~~*(3)* A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana.

~~(3)~~*(4)* The probation and parole officer shall regularly advise and consult with the probationer to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

~~(4)~~*(5)* (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-310, 45-5-311, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

~~(5)~~*(6)* (a) ~~Upon~~ *On* recommendation of the probation and parole officer, a judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

(b) Subsection ~~(5)(a)~~ *(6)(a)* does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision.

(c) If the department certifies to the sentencing judge that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the judge may not place an offender on probation under supervision by that district office unless the judge grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the judge for conditional discharge. The judge may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

Section 4. Section 46-24-203, MCA, is amended to read:

"46-24-203. Prompt notification to victims and witnesses of certain offenses. (1) A person described in subsection (2) who provides the appropriate official with a current address and telephone number must receive prompt advance notification, if possible, of proceedings relating to the person's case, including:

(a) the arrest of an accused;

(b) the release of the accused pending judicial proceedings;

(c) the crime with which the accused has been charged, including an explanation of the elements of the offense when necessary to an understanding of the nature of the crime;

(d) proceedings in the prosecution of the accused, including entry of a plea of guilty or nolo contendere and the setting of a trial date;

(e) if the accused is convicted or pleads guilty or nolo contendere~~,~~*:*

(i) the function of a presentence report;

(ii) the name, office address, and telephone number of the person preparing the report; and

(iii) the convicted person's right of access to the report, as well as the victim's right under 46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted person's right to be present at the sentencing proceeding and to have access to the victim's statement;

(f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of imprisonment, if imposed; ~~and~~

(g) the right under 46-24-212 of a victim of a felony offense to receive information from the department of corrections concerning the convicted person's incarceration*; and*

(h) the right under 46-23-215, 46-23-509, or 46-23-1011 of a victim of a sexual offense, as defined in 46-23-502, to request a sentencing order, condition of parole, or condition of probation to require the convicted person to refrain from direct or indirect contact with the victim.

(2) A person entitled to notification under subsection (1) must be a victim or witness of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a relative of a victim or witness who is a minor, or a relative of a homicide victim."

Section 5. Section 46-24-212, MCA, is amended to read:

"46-24-212. Information concerning confinement. ~~Upon~~ *On* request of a victim of a felony offense, the department of corrections or the board of pardons and parole, as applicable, shall:

(1) promptly inform the victim of the following information concerning a prisoner committing the offense:

(a) the custody level;

(b) the projected discharge or parole eligibility date;

(c) the actual date of the prisoner's discharge from confinement or parole, if reasonably ascertainable;

(d) the time and place of a parole hearing concerning the prisoner*,* ~~and of~~ the victim's right to submit a statement to the board of pardons and parole or the hearing panel conducting a parole hearing under 46-23-202*, and the victim's right under 46-23-215, 46-23-509, or 46-23-1011 to request a condition of parole or probation to require the prisoner to refrain from direct or indirect contact with the victim*; and

(e) the community in which the prisoner will reside after parole;

(2) provide reasonable advance notice to the victim before release of the defendant on furlough or to a work-release program, halfway house, or other community-based program or correctional facility; and

(3) promptly inform the victim of the occurrence of any of the following events concerning the prisoner:

(a) an escape from a correctional or mental health facility or community program;

(b) a recapture;

(c) a decision of the board of pardons and parole;

(d) a decision of the governor to commute the sentence or to grant executive clemency;

(e) a release from confinement and any conditions attached to the release; and

(f) the prisoner's death."

Approved March 24, 2015

CHAPTER NO. 114

[HB 206]

AN ACT REMOVING THE REQUIREMENT THAT THE GRASS CONSERVATION COMMISSION MEET IN HELENA; AMENDING SECTION 76-16-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-16-112, MCA, is amended to read:

"76-16-112. Creation of Montana grass conservation commission — membership — meetings — compensation. (1) There is a Montana grass conservation commission. The commission is composed of five members appointed by the governor to serve staggered 3-year terms.

(2) (a) The governor, after giving full consideration to representation by both large and small operators, shall appoint:

(i) two members who are either officers of or who serve on the board of directors of a state district;

(ii) two members who hold active grazing preference rights within a state district; and

(iii) one member of the public who possesses a general understanding of the livestock industry and the proper use of rangelands within state districts for the purpose of livestock production.

(b) Ex officio members may be appointed by the commission as needed.

(3) Members may not be appointed for more than three consecutive terms. The commission shall annually elect from among its members a presiding officer and a vice presiding officer. The presiding officer shall preside over all meetings of the commission, except that the vice presiding officer shall assume the duties of the presiding officer in the absence of the presiding officer.

(4) *(a)* The commission shall meet annually ~~at the main offices of the department in Helena~~ *in Montana at a place determined by the presiding officer*.

(b) The commission may hold other meetings at times and places as necessary upon the call of the presiding officer or the request of a majority of commission members and upon at least 7 days' written notice to the commission members of the time and place of the meeting.

(c) A majority of commission members constitutes a quorum for the transaction of business. The commission shall keep accurate records of all business that is considered, and the presiding officer shall sign all orders, minutes, and other documents of the commission.

(5) Commission members may receive no compensation for their services, but members are entitled to compensation for actual expenses incurred in carrying out their duties, including travel and per diem.

(6) The commission is allocated to the department for administrative purposes only as provided in 2-15-121. The commission shall, if it determines that personnel services are required, hire its own personnel, and 2-15-121(2)(d) does not apply. The secretary must be employed at the discretion of the commission."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 24, 2015

CHAPTER NO. 115

[HB 221]

AN ACT ALLOWING CERTAIN INJURED LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS TO FISH WITH A WILDLIFE CONSERVATION LICENSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Law enforcement officers and firefighters critically injured in line of duty. A law enforcement officer, as defined in 7-32-201, a firefighter, or a volunteer firefighter who was critically injured in the line of duty and is permanently unable to return to work because of the injury is entitled to fish with a wildlife conservation license issued by the department during expeditions arranged for the person by a nonprofit organization that uses fishing as part of the rehabilitation of injured or disabled persons.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 8, and the provisions of Title 87, chapter 2, part 8, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 24, 2015

CHAPTER NO. 116

[SB 21]

AN ACT PROVIDING FOR AUTOMATIC FORFEITURE OF HUNTING, FISHING, AND TRAPPING LICENSES AND PRIVILEGES FOR UNLAWFUL PROCUREMENT, POSSESSION, USE, OR TRANSFER OF REPLACEMENT LICENSES, PERMITS, OR TAGS; AND AMENDING SECTIONS 87-6-302 AND 87-6-304, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-302, MCA, is amended to read:

"87-6-302. Unlawful procurement of license, permit, or tag. (1) A person may not:

(a) subscribe to or make any materially false statement on an application or license. Any ~~material~~ *materially* false statement contained in an application renders the license issued pursuant to it void.

(b) purchase a hunting, fishing, or trapping license without first having obtained a wildlife conservation license pursuant to 87-2-201; or

(c) purposely or knowingly assist an unqualified applicant in obtaining a resident license.

(2) A license agent may not sell any hunting, fishing, or trapping license to:

(a) an applicant who fails to produce the required identification at the time of application for licensure pursuant to 87-2-106(1) and 87-2-202(1); or

(b) a person who does not present the person's wildlife conservation license at the time of application for the ~~licenses~~ *license*.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, *except as provided in subsection (4),* the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted under subsection (1)(a) of unlawfully procuring a replacement license, permit, or tag shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless a court imposes a longer period. For each subsequent violation, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for the same period of time imposed by the court for the person's previous violation plus an additional 24 months."

Section 2. Section 87-6-304, MCA, is amended to read:

"87-6-304. License, permit, or tag offenses. (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in 87-6-305(2), a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, *except as provided in subsection (7),* the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A person convicted under subsection (1), (2), or (5) of unlawfully procuring, possessing, using, or transferring a replacement license, permit, or tag shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless a court imposes a longer period. For each subsequent violation, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for the same period of time imposed by the court for the person's previous violation plus an additional 24 months."

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 25, 2015

CHAPTER NO. 117

[SB 53]

AN ACT CLARIFYING THE DUTIES OF A CREDIT UNION'S BOARD OF DIRECTORS; REQUIRING DEVELOPMENT OF CERTAIN POLICIES RELATING TO CREDIT UNION OPERATIONS AND FUNCTIONS; PROVIDING DIRECTOR DUTIES AND MINIMUM COMPETENCIES; CLASSIFYING DIRECTORS' DUTIES AS GENERAL, NONDELEGABLE, AND DELEGABLE; PROVIDING RULEMAKING AUTHORITY; AND REPEALING SECTION 32-3-412, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Duties of directors — rulemaking. (1) General duties of directors include but are not limited to:

(a) acting in good faith, in a manner the directors reasonably believe to be in the best interests of the credit union's membership, with the care, including reasonable inquiry, that an ordinarily prudent director in a like position would exercise under similar circumstances;

(b) administering the affairs of the credit union fairly and impartially; and

(c) having, or achieving within 6 months after appointment or election, a working knowledge of:

(i) basic finance and accounting practices and principles, including the ability to read and understand the credit union's balance sheet and income statement and the ability to ask substantive questions of management and

auditors commensurate with the size and complexity of the credit union's operations; and

(ii) the primary types of significant risks associated with credit union operations and a general knowledge of managing risks.

(2) Nondelegable duties of directors pertaining to the general direction and control of the credit union include:

(a) (i) determining the maximum number and classes of shares;

(ii) setting the par value of the shares of the credit union; and

(iii) limiting the number of shares that may be owned by a member, which must apply equally to all members;

(b) declaring dividends on shares in the manner and form provided in the bylaws;

(c) establishing a detailed written policy concerning interest refunds to members based on credit union income. The interest refunds must be in proportion to the interest paid by members on classes of loans during a fixed period that must coincide with the credit union's dividend period.

(d) approving an annual operating budget for the credit union;

(e) authorizing the employment of and fixing the compensation, if any, of the general manager;

(f) suspending or removing a member of the credit committee or supervisory committee for failure to perform duties. If the credit committee or supervisory committee is elected by the membership of the credit union under its bylaws and 32-3-403, the board of directors shall appoint a member to fill a vacancy created under this subsection (2)(f) to serve until election and qualification of the successor by the members at the next annual meeting of the membership or at a special meeting called for that purpose.

(g) borrowing money to carry on the functions of the credit union;

(h) fixing, from time to time, the maximum amount of credit that may be extended or the maximum amount that may be loaned to any one member within the limits of 32-3-603;

(i) lending money to members and establishing, by loan class or type of credit extension, a detailed written policy containing standards and conditions for approving credit applications, identifying acceptable loan purposes, establishing loan underwriting standards, and establishing maximum maturities, terms of repayment or amortization of loans, and standards pertaining to collections and charge-offs;

(j) approving the charge-off of credit union losses;

(k) terminating or suspending memberships and expelling members following a procedure that is fair and reasonable;

(l) designating persons or management positions authorized to execute or certify documents or records other than deposit account transactions on the credit union's behalf;

(m) designating a depository or depositories for the funds of the credit union and designating the persons or positions authorized to execute the credit union's deposit account transactions;

(n) authorizing the conveyance of property;

(o) appointing any special committees considered necessary;

(p) purchasing a blanket fidelity bond to protect the credit union against losses caused by occurrences covered by the bond such as fraud, dishonesty,

forgery, theft, misappropriation, misapplication, or unfaithful performance of duty by a director, officer, employee, member of a duly appointed committee, or other agent of the credit union;

(q) performing other duties as the members occasionally direct; and

(r) performing or authorizing any action not inconsistent with this chapter and not specifically reserved by the bylaws for the members.

(3) A credit union's directors shall adopt written policies that include standards, conditions, and controls governing the following operational functions, any of which may be delegated to an appointed committee or qualified person to be executed consistent with the policies:

(a) acting on applications for membership and making a written record of the basis for each approval or denial of membership. The notification to an applicant of the decision made by an appointed membership committee or qualified person must include notice of the opportunity to appeal an adverse decision to the board of directors and must state the procedure and time period for commencing an appeal.

(b) investing surplus funds; and

(c) determining, from time to time, the interest rate or rates to be charged on loans and extensions of credit, consistent with credit union safety and soundness principles, by classes of loans, loan sizes, terms or maturities of loans, reference indexes, and other factors the board of directors considers appropriate.

(4) The department of administration may adopt rules necessary to implement this section.

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

32-3-412. Duties of directors.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 32, chapter 3, part 4, and the provisions of Title 32, chapter 3, part 4, apply to [section 1].

Approved March 25, 2015

CHAPTER NO. 118

[SB 80]

AN ACT ELIMINATING CERTAIN AGENCY REPORTING REQUIREMENTS TO THE LEGISLATIVE AUDIT COMMITTEE; AMENDING SECTIONS 17-7-160, 17-7-161, AND 17-7-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-160, MCA, is amended to read:

"17-7-160. Montana highway patrol exempt from vacancy savings — ~~report to audit committee~~. (1) Vacancy savings may not be imposed on authorized positions in the Montana highway patrol.

(2) For purposes of this section:

(a) "authorized positions" means those positions included in the list of current authorized positions that the Montana highway patrol is required to maintain under 2-18-206; and

(b) "vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of those authorized positions during that period.

~~(3) Each fiscal year, the department of justice shall provide to the legislative audit committee a detailed report on all positions in the Montana highway patrol. At a minimum, the report must include the following information:~~

~~(a) the number of positions that were filled during the year and the average salary paid at hire;~~

~~(b) the total number of vacancies incurred during the year broken out by position title, the cause of each vacancy, and the length of time the position remained vacant;~~

~~(c) the total number of hours spent on patrol during the year broken out by enforcement activity and position title.~~"

Section 2. Section 17-7-161, MCA, is amended to read:

"17-7-161. Game warden positions exempt from vacancy savings — ~~report to audit committee~~. (1) Vacancy savings may not be imposed on authorized game warden positions in the department.

(2) For purposes of this section:

(a) "authorized game warden positions" means those game warden positions included in the list of current authorized positions that the department is required to maintain under 2-18-206;

(b) "department" means the department of fish, wildlife, and parks established in 2-15-3401; and

(c) "vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of funding those authorized positions during that fiscal year.

~~(3) Each fiscal year, the department shall provide to the legislative audit committee provided for in 5-13-201 a detailed report on all authorized game warden positions in the department. At a minimum, the report must include the following information:~~

~~(a) the number of authorized game warden positions that were filled during the year and the average salary paid at hire;~~

~~(b) the total number of vacancies incurred during the year broken out by position title, the cause of each vacancy, and the length of time the authorized game warden position remained vacant;~~

~~(c) the total number of hours worked in authorized game warden positions during the year broken out by enforcement activity and position title.~~"

Section 3. Section 17-7-162, MCA, is amended to read:

"17-7-162. Montana school for the deaf and blind exempt from vacancy savings. (1) Vacancy savings may not be imposed on authorized positions in the Montana school for the deaf and blind, as described in 20-8-101.

~~(2) Each fiscal year, the board shall provide to the legislative audit committee provided for in 5-13-201 a detailed report on all authorized positions in the Montana school for the deaf and blind. At a minimum, the report must include the following information:~~

~~(a) the number of positions that were filled during the year and the average salary paid at hire; and~~

~~(b) the total number of vacancies incurred during the year broken out by position title, the cause of each vacancy, and the length of time the position remained vacant.~~

~~(3)~~*(2)* For purposes of this section, the following definitions apply:

(a) "Authorized positions" means those positions included in the list of current authorized positions that the board is required to maintain under 2-18-206.

~~(b) "Board" means the board of public education created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.~~

~~(c)~~*(b)* "Vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of those authorized positions during that period."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2015

CHAPTER NO. 119

[SB 96]

AN ACT EXPANDING THE USES OF THE ORPHAN SHARE ACCOUNT TO PAY CERTAIN REMEDIAL ACTION COSTS INCURRED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REQUIRING THE DEPARTMENT TO REPORT USE OF THE ACCOUNT TO THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTIONS 75-10-711 AND 75-10-743, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-10-711, MCA, is amended to read:

"75-10-711. Remedial action — orders — penalties — judicial proceedings. (1) The department may take remedial action whenever:

(a) there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, *safety, or* welfare~~, or safety~~ or *to* the environment; and

(b) none of the persons who are liable or potentially liable under 75-10-715(1) and who have been given the opportunity by letter to properly and expeditiously perform the appropriate remedial action will properly and expeditiously perform the appropriate remedial action. Any person liable under 75-10-715(1) shall take immediate action to contain, remove, and abate the release.

(2) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release has occurred or is about to occur, the department may undertake remedial action in the form of any investigation, monitoring, survey, testing, or other information gathering as authorized by 75-10-707 that is necessary and appropriate to identify the existence, nature, origin, and extent of the release or the threat of release and the extent and imminence of the danger to the public health, safety, or welfare or *to* the environment.

(3) Except as provided in 75-10-712, the department is authorized to draw ~~upon~~ *on* the fund to take action under subsection (1) if it has made diligent good faith efforts to determine the identity of the person or persons liable for the release or threatened release and:

(a) is unable to determine the identity of the liable person or persons in a manner consistent with the need to take timely remedial action; or

(b) a person or persons determined by the department to be liable or potentially liable under 75-10-715(1) have been informed in writing of the department's determination and have been requested by the department to take appropriate remedial action but are unable or unwilling to take action in a timely manner; and

(c) the written notice informs the person that if subsequently found liable pursuant to 75-10-715(1), the person may be required to reimburse the fund for the state's remedial action costs and may be subject to penalties pursuant to this part.

(4) Whenever the department is authorized to act pursuant to subsection (1), it may issue to any person liable under 75-10-715(1) cease and desist, remedial, or other orders as may be necessary or appropriate to protect the public health, safety, or welfare or the environment.

(5) (a) A person who violates or fails *to comply with* or refuses to comply with an order issued under 75-10-707 or this section may, in an action brought to enforce the order, be assessed a civil penalty of not more than $10,000 for each day in which a violation occurs or a failure or refusal to comply continues. In determining the amount of any penalty assessed, the court may take into account:

(i) the nature, circumstances, extent, and gravity of the noncompliance;

(ii) with respect to the person liable under 75-10-715(1):

(A) the person's ability to pay;

(B) any prior history of violations;

(C) the degree of culpability; and

(D) the economic benefit or savings, if any, resulting from the noncompliance; and

(iii) any other matters as justice may require.

(b) Civil penalties collected under subsection (5)(a) must be deposited into the environmental quality protection fund established in 75-10-704.

(6) A court has jurisdiction to review an order issued under 75-10-707 or this section only in the following actions:

(a) an action under 75-10-715 to recover remedial action costs or penalties or for contribution;

(b) an action to enforce an order issued under 75-10-707 or this section;

(c) an action to recover a civil penalty for violation of or failure *or refusal* to comply with an order issued under 75-10-707 or this section; or

(d) an action by a person to whom an order has been issued to determine the validity of the order, only if the person has been in compliance and continues in compliance with the order pending a decision of the court.

(7) In considering objections raised in a judicial action regarding orders issued under this part, the court shall uphold and enforce an order issued by the department unless the objecting party can demonstrate, on the administrative record, that the department's decision to issue the order was arbitrary and capricious or otherwise not in accordance with law.

(8) Instead of issuing a notification or an order under this section, the department may bring an action for legal or equitable relief in the district court of the county where the release or threatened release occurred or in the first

judicial district as may be necessary to abate any imminent and substantial endangerment to the public health, safety, or welfare or *to* the environment resulting from the release or threatened release.

(9) A person who is not subject to an administrative or judicial order may not conduct any remedial action at any facility that is subject to an administrative or judicial order issued pursuant to this part without the written permission of the department. If a state or federal administrative or judicial order is issued relative to a facility, the order and any remedial activity conducted pursuant to the order may be admissible in a civil action pertaining to the facility or property adjacent to or allegedly impacted by the facility provided that the reviewing court in its discretion determines the order to be relevant and more probative than prejudicial. Admission of this evidence does not make the department a necessary party to the action. Remedial action performed in accordance with this part is intended to provide for the protection of the environmental life support system from degradation and to prevent unreasonable depletion and degradation of natural resources.

(10) The department may take remedial action pursuant to subsection (1) at a site that is regulated under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, if the department determines that remedial action is necessary to carry out the purposes of this part.

(11) The department may take remedial action as provided for in 75-10-743(12)."

Section 2. Section 75-10-743, MCA, is amended to read:

"75-10-743. Orphan share state special revenue account — reimbursement of claims — payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and, except as provided in subsections (9), (10), and (11), must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-751*,* ~~and~~ to pay costs incurred by the department in defending the orphan share*, and to pay remedial action costs incurred by the department pursuant to subsection (12)*.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;

(c) unencumbered funds remaining in the abandoned mines state special revenue account;

(d) interest income on the account;

(e) funds received from settlements pursuant to 75-10-719(7); and

(f) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share ~~fund~~ *account* contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share ~~fund~~ *account* does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share ~~fund~~ *account*, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share ~~fund~~ *account*

does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share ~~fund~~ *account* until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Except as provided in subsection (6), reimbursement from the orphan share ~~fund~~ *account* must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share ~~fund~~ *account* is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share ~~fund~~ *account*, the department's costs incurred in defending the orphan share must be paid from the orphan share ~~fund~~ *account* in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share ~~fund~~ *account*, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share ~~fund~~ *account* and must be reimbursed as provided in subsection (3).

(c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share ~~fund~~ *account* and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs. The agency may be reimbursed only after:

(i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent jurisdiction;

(ii) it has received a notice letter pursuant to 75-10-711; and

(iii) the department has approved the costs.

(7) (a) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(b) The department may reimburse claims from a lead liable person upon completion and department approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable person for the preparation of the reports.

(8) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share ~~fund~~ *account* for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process.

(9) (a) For the biennium beginning July 1, 2005, up to $1.25 million may be used by the department to pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than $1.25 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the $1.25 million from potentially liable persons.

(b) The money spent pursuant to subsection (9)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent.

(10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 $1.2 million in each fiscal year until the board of investments makes the certification pursuant to subsection (10)(b) of this section.

(b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water treatment permanent trust fund will be sufficient, with future earnings, to provide a fund balance of $19.3 million on January 1, 2018.

(ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board of investments shall notify the department and certify to the department the amount of money, if any, that must be transferred during the fiscal year in which the board of investments makes its determination pursuant to subsection (10)(b)(i) in order to provide a fund balance of $19.3 million on January 1, 2018.

(iii) In the fiscal year that the board of investments makes its determination and notifies the department, the department shall transfer only the amount certified by the board of investments, if any, and may not make additional transfers during subsequent fiscal years.

(11) The orphan share account is subject to legislative fund transfers.

(12) Except as provided in subsection (13), the department may use the orphan share account to:

(a) take remedial action at a facility where there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment and there is no readily apparent person who is financially viable and potentially liable under 75-10-715 to conduct the remedial action; or

(b) fund the administration of data collection, the monitoring of the performance of remedial action, and the initial assessment of a facility to determine whether that facility may be closed or delisted.

(13) The department may not use for data collection, initial assessments, or monitoring pursuant to subsection (12)(b) more than 20% of the funds appropriated from the orphan share account for the bienniums beginning July 1,

2015, and ending June 30, 2025. For the bienniums beginning July 1, 2025, no more than 15% of the funds appropriated from the orphan share account may be used for data collection, initial assessments, or monitoring pursuant to subsection (12)(b).

(14) On or before July 1 of each year, the department shall report to the environmental quality council the amount of funds from the orphan share account used pursuant to subsection (12), the type of expenditures made, and the identity and location of facilities addressed."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2015

CHAPTER NO. 120

[SB 110]

AN ACT PROVIDING FOR TEMPORARY REGISTRATION PERMITS FOR CERTAIN VEHICLES USED FOR RECREATIONAL PURPOSES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-1-101 AND 61-3-224, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes upon behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; and

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency service vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) entitled to the exemptions granted under 61-8-107;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design;

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (14)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, upon or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license or permit limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or instruction permit;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, upon or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215;

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

~~(b)~~*(d)* The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSIA/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.

(45) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; and

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle, registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property upon the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated upon rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted upon by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, given away, or had its title transferred from the person

who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(89) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Section 2. Section 61-3-224, MCA, is amended to read:

"61-3-224. Temporary registration permit — authority to adopt rules — issuance — placement — fees. (1) The department may adopt rules governing the issuance of temporary registration permits. The rules must specify the purposes for which a temporary registration permit may be issued, including but not limited to issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number in order to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession; ~~or~~

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim*; or*

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in chapter 9 but the quadricycle or motorcycle designed for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state.

(2) (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

(3) A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(4) A temporary registration permit issued under this section must contain the following information:

(a) a temporary plate number as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(5) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(6) (a) Except as provided in 61-3-431 and subsection (6)(b) of this section, a $3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered.

(b) Except as provided in 61-3-431, a fee of $8 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state *or who registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use*; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(7) The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in 61-3-118.

(8) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."

Section 3. Effective date. [This act] is effective January 1, 2016.

Approved March 25, 2015

CHAPTER NO. 121

[SB 119]

AN ACT CLARIFYING ELIGIBLE VOTERS IN CERTAIN ELECTIONS; CLARIFYING THAT CERTAIN OFFICERS OF A COMPANY MAY PETITION, PROTEST, OR VOTE IN CERTAIN CIRCUMSTANCES ON BEHALF OF THE PROPERTY OWNED BY THE COMPANY; AMENDING SECTION 7-1-4134, MCA; AND REPEALING SECTION 7-13-2254, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-1-4134, MCA, is amended to read:

"7-1-4134. Rights on behalf of government, *company,* or corporation. The chief executive of a municipality or political subdivision of the state, the responsible agent of a federal or state agency, or the chief executive officer*, president, vice president, authorized agent, or secretary* of a corporation *or company* may exercise the right of petition, protest, or voting on behalf of property owned by the government*,* ~~or~~ corporation*, or company*."

Section 2. Provision for vote by corporate or company property owner. If a corporation or company is a property owner entitled to vote under the specific laws governing a special district, the chief executive officer, president, vice president, authorized agent, or secretary of the corporation or company may exercise the right on behalf of the corporation or company.

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

7-13-2254. Provision for vote by corporate property owner.

Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 13, chapter 1, part 4, and the provisions of Title 13, chapter 1, part 4, apply to [section 2].

Approved March 25, 2015

CHAPTER NO. 122

[SB 82]

AN ACT DELEGATING WATER-RELATED DUTIES FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE; TRANSFERRING ADMINISTRATIVE RULE REVIEW, DRAFT LEGISLATION REVIEW, PROGRAM EVALUATION, AND MONITORING FUNCTIONS FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE FOR ISSUES WHERE THE PRIMARY CONCERN IS THE QUALITY OR QUANTITY OF WATER; TRANSFERRING VARIOUS REPORTING REQUIREMENTS FROM THE ENVIRONMENTAL QUALITY COUNCIL TO THE WATER POLICY COMMITTEE; AMENDING SECTIONS 5-5-202, 5-5-231, 75-1-208, 75-1-324, 75-5-313, 75-5-703, 85-1-203, 85-1-621, 85-2-105, 85-2-281, 85-2-350, AND 85-2-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-202, MCA, is amended to read:

"5-5-202. Interim committees. (1) During an interim when the legislature is not in session, the committees listed in subsection (2) are the interim committees of the legislature. They are empowered to sit as committees and may act in their respective areas of responsibility. The functions of the legislative council, legislative audit committee, legislative finance committee, environmental quality council, ~~water policy committee,~~ and state-tribal relations committee are provided for in the statutes governing those committees.

(2) The following are the interim committees of the legislature:

(a) economic affairs committee;

(b) education and local government committee;

(c) children, families, health, and human services committee;

(d) law and justice committee;

(e) energy and telecommunications committee;

(f) revenue and transportation committee; ~~and~~

(g) state administration and veterans' affairs committee*; and*

(h) water policy committee.

(3) An interim committee or the environmental quality council may refer an issue to another committee that the referring committee determines to be more appropriate for the consideration of the issue. Upon the acceptance of the referred issue, the accepting committee shall consider the issue as if the issue were originally within its jurisdiction. If the committee that is referred an issue declines to accept the issue, the original committee retains jurisdiction.

(4) If there is a dispute between committees as to which committee has proper jurisdiction over a subject, the legislative council shall determine the most appropriate committee and assign the subject to that committee. If there is an entity that is attached to an agency for administrative purposes under the jurisdiction of an interim committee and another interim committee has a justification to seek jurisdiction and petitions the legislative council, the legislative council may assign that entity to the interim committee seeking jurisdiction unless otherwise provided by law."

Section 2. Section 5-5-231, MCA, is amended to read:

"5-5-231. Water policy committee. (1) There is a water policy committee. ~~Except as provided in subsection (2), the committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214.~~ The committee shall:

(a) determine which water policy issues it examines;

(b) conduct interim studies as assigned pursuant to 5-5-217;

(c) subject to the provisions of 5-5-202(4), coordinate with the environmental quality council and other interim committees to avoid duplication of efforts; ~~and~~

(d) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210*; and*

(e) in accordance with 5-5-215, for issues where the primary concern is the quality or quantity of water, perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of an interim committee for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

(i) department of environmental quality;

(ii) department of fish, wildlife, and parks; and

(iii) department of natural resources and conservation.

(2) At least two members of the committee must possess experience in agriculture."

Section 3. Section 75-1-208, MCA, is amended to read:

"75-1-208. Environmental review procedure. (1) (a) Except as provided in 75-1-205(4) and subsection (1)(b) of this section, an agency shall comply with this section when completing any environmental review required under this part.

(b) To the extent that the requirements of this section are inconsistent with federal requirements, the requirements of this section do not apply to an environmental review that is being prepared jointly by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that must comply with the requirements of the National Environmental Policy Act.

~~(2)~~*(2) (a) Except as provided in subsection (2)(b), a* ~~A~~ project sponsor may, after providing a 30-day notice, appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The environmental quality council shall ensure that the appropriate agency personnel are available to answer questions.

(b) If the primary concern of the agency's environmental review of a project is the quality or quantity of water, a project sponsor may, after providing a 30-day notice, appear before the water policy committee established in 5-5-231 at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The water policy committee shall ensure that the appropriate agency personnel are available to answer questions.

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must

sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are provided by law. All time limits are measured from the date the agency receives a complete application. An agency has:

(i) 60 days to complete a public scoping process, if any;

(ii) 90 days to complete an environmental review unless a detailed statement pursuant to 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and

(iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).

(b) The period of time between the request for a review by a board and the completion of a review by a board under 75-1-201(9) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, 76-4-125, 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

(5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time, and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension, the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the extension.

(6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review by the expiration of the original or extended time period, the agency may not withhold a permit or other authority to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval to act would result in the violation of a statutory or regulatory requirement.

(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2.

(8) Under this part, an agency may only request ~~that~~ information from the project sponsor that is relevant to the environmental review required under this part.

(9) An agency shall ensure that the notification for any public scoping process associated with an environmental review conducted by the agency is presented in an objective and neutral manner and that the notification does not speculate on the potential impacts of the project.

(10) An agency may not require the project sponsor to provide engineering designs in greater detail than that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate board, if any, review an agency's request regarding the level of design detail information that the agency believes is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(11) An agency shall, when appropriate, evaluate the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through preimpact statement studies, separate impact statement evaluations, or permit processing procedures."

Section 4. Section 75-1-324, MCA, is amended to read:

"75-1-324. Duties of environmental quality council. The environmental quality council shall:

(1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret the information for the purpose of determining whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to the conditions and trends;

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy and make recommendations to the governor and the legislature with respect to the policy;

(3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

(4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(6) make and furnish studies, reports on studies, and recommendations with respect to matters of policy and legislation as the legislature requests;

(7) analyze legislative proposals in clearly environmental areas and in other fields in which legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan;

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among the activities and with a general ecologic perspective, and suggest legislation to remedy the situations; and

(10) *except as provided in 5-5-231,* perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of an interim committee for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

(a) department of environmental quality;

(b) department of fish, wildlife, and parks; and

(c) department of natural resources and conservation."

Section 5. Section 75-5-313, MCA, is amended to read:

"75-5-313. Nutrient standards variances — individual, general, and alternative. (1) The department shall, on a case-by-case basis, approve the use of an individual nutrient standards variance in a discharge permit based upon adequate justification pursuant to subsection (2) that attainment of the base numeric nutrient standards is precluded due to economic impacts, limits of technology, or both.

(2) (a) The department, in consultation with the nutrient work group, shall develop guidelines for individual nutrient standards variances to ensure that the economic impacts from base numeric nutrient standards on public and private systems are equally and adequately addressed. In developing those guidelines, the department and the nutrient work group shall consider economic impacts appropriate for application within Montana, acknowledging that advanced treatment technologies for removing nutrients will result in significant and widespread economic impacts.

(b) The department shall consult with the nutrient work group prior to recommending base numeric nutrient standards to the board and shall continue to consult with the nutrient work group in implementing individual nutrient standards variances.

(3) The department shall review each application for an individual nutrient standards variance on a case-by-case basis to determine if there are reasonable alternatives, such as trading, permit compliance schedules, or the alternatives provided in subsections (5), (10), and (11), that preclude the need for the individual nutrient standards variance.

(4) Individual nutrient standards variances approved by the department become effective and may be incorporated into a permit only after a public hearing and adoption by the department under the rulemaking procedures of Title 2, chapter 4, part 3.

(5) (a) Because the treatment of wastewater to base numeric nutrient standards would result in substantial and widespread economic impacts on a statewide basis, a permittee who meets the requirements established in subsection (5)(b) may, subject to subsection (6), apply for a general nutrient standards variance.

(b) The department shall approve the use of a general nutrient standards variance for permittees with wastewater treatment facilities that discharge to surface water:

(i) in an amount greater than or equal to 1 million gallons per day of effluent if the permittee treats the discharge to, at a minimum, 1 milligram total phosphorus per liter and 10 milligrams total nitrogen per liter, calculated as a monthly average during the period in which the base numeric nutrient standards apply;

(ii) in an amount less than 1 million gallons per day of effluent if the permittee treats the discharge to, at a minimum, 2 milligrams total phosphorus per liter and 15 milligrams total nitrogen per liter, calculated as a monthly average during the period in which the base numeric nutrient standards apply; or

(iii) from lagoons that were not designed to actively remove nutrients if the permittee maintains the performance of the lagoon at a level equal to the performance of the lagoon on October 1, 2011.

(6) (a) The monthly average concentrations for total nitrogen and total phosphorus in subsection (5)(b) are the highest concentrations allowed in each category and remain in effect until May 31, 2016.

(b) Categories and concentrations in subsection (5)(b) must be adopted by rule by May 31, 2016.

(7) (a) Immediately after May 31, 2016, and every 3 years thereafter, the department, in consultation with the nutrient work group, shall revisit and update the concentration levels provided in subsection (5)(b).

(b) If more cost-effective and efficient treatment technologies are available, the concentration levels provided in subsection (5)(b) must be updated pursuant to subsection (7)(c) to reflect those changes.

(c) The updates become effective and may be incorporated into a permit only after a public hearing and adoption by the department under the rulemaking procedures of Title 2, chapter 4, part 3.

(8) An individual, general, or alternative nutrient standards variance may be established for a period not to exceed 20 years and must be reviewed by the department every 3 years from the date of adoption to ensure that the justification for its adoption remains valid.

(9) (a) Permittees receiving an individual, general, or alternative nutrient standards variance shall evaluate current facility operations to optimize nutrient reduction with existing infrastructure and shall analyze cost-effective methods of reducing nutrient loading, including but not limited to nutrient trading without substantial investment in new infrastructure.

(b) The department may request that a permittee provide the results of an optimization study and nutrient reduction analysis to the department within 2 years of receiving an individual, general, or alternative nutrient variance.

(10) (a) A permittee may request that the department provide an alternative nutrient standards variance if the permittee demonstrates that achieving nutrient concentrations established for an individual or general nutrient standards variance would result in an insignificant reduction of instream nutrient loading.

(b) A permittee receiving an alternative nutrient standards variance shall comply with the requirements of subsections (8) and (9) and shall demonstrate that the permittee's contribution to nutrient concentrations in the watershed continues to remain insignificant.

(11) The department shall encourage the use of alternative effluent management methods to reduce instream nutrient loading, including reuse, recharge, land application, and trading.

(12) On or before July 1 of each year, the department, in consultation with the nutrient work group, shall report to the ~~environmental quality council~~ *water policy committee established in 5-5-231* by providing a summary of the status of the base numeric nutrient standards, the nutrient standards variances, and *the* implementation of those standards and variances, including estimated economic impacts.

(13) On or before September 1 of each year preceding the convening of a regular session of the legislature, the department, in consultation with the nutrient work group, shall summarize the ~~previous~~ two *most recent* reports provided ~~in~~ *under* subsection (12) *and submit* to the ~~environmental quality council in accordance with 5-11-210~~ *water policy committee established in 5-5-231 this final summary in accordance with 5-11-210*."

Section 6. Section 75-5-703, MCA, is amended to read:

"75-5-703. Development and implementation of total maximum daily loads. (1) The department shall, in consultation with local conservation districts and watershed advisory groups, develop total maximum daily loads or

TMDLs for threatened or impaired water bodies or segments of water bodies in order of the priority ranking established by the department under 75-5-702. Each TMDL must be established at a level that will achieve compliance with applicable water quality standards and must include a reasonable margin of safety that takes into account any lack of knowledge concerning the relationship between the TMDL and water quality standards. The department shall consider applicable guidance from the federal environmental protection agency, as well as the environmental, economic, and social costs and benefits of developing and implementing a TMDL.

(2) In establishing TMDLs under subsection (1), the department may establish waste load allocations for point sources and may establish load allocations for nonpoint sources, as set forth in subsection (8), and may allow for effluent trading. The department shall, in consultation with local conservation districts and watershed advisory groups, develop reasonable land, soil, and water conservation practices specifically recognizing established practices and programs for nonpoint sources.

(3) The department shall establish a schedule that provides a reasonable timeframe for TMDL development for impaired and threatened water bodies that are on the most recent list prepared pursuant to 75-5-702. On or before July 1 of each even-numbered year, the department shall report the progress in completing TMDLs and the current schedule for completion of TMDLs for the water bodies that remain on the list to the ~~environmental quality council~~ *water policy committee established in 5-5-231*.

(4) The department shall provide guidance for TMDL development on any threatened or impaired water body, regardless of its priority ranking, if the necessary funding and resources from sources outside the department are available to develop the TMDL and to monitor the effectiveness of implementation efforts. The department shall review the TMDL and either approve or disapprove the TMDL. If the TMDL is approved by the department, the department shall ensure implementation of the TMDL according to the provisions of subsections (6) through (8).

(5) For water bodies listed under 75-5-702, the department shall provide assistance and support to landowners, local conservation districts, and watershed advisory groups for interim measures that may restore water quality and remove the need to establish a TMDL, such as informational programs regarding control of nonpoint source pollution and voluntary measures designed to correct impairments. When a source implements voluntary measures to reduce pollutants prior to development of a TMDL, those measures, whether or not reflected in subsequently issued waste discharge permits, must be recognized in development of the TMDL in a way that gives credit for the pollution reduction efforts.

(6) After development of a TMDL and upon approval of the TMDL, the department shall:

(a) incorporate the TMDL into its current continuing planning process;

(b) incorporate the waste load allocation developed for point sources during the TMDL process into appropriate water discharge permits; and

(c) assist and inform landowners regarding the application of a voluntary program of reasonable land, soil, and water conservation practices developed pursuant to subsection (2).

(7) Once the control measures identified in subsection (6) have been implemented, the department shall, in consultation with the statewide TMDL

advisory group, develop a monitoring program to assess the waters that are subject to the TMDL to determine whether compliance with water quality standards has been attained for a particular water body or whether the water body is no longer threatened. The monitoring program must be designed based on the specific impairments or pollution sources. The department's monitoring program must include long-term monitoring efforts for the analysis of the effectiveness of the control measures developed.

(8) The department shall support a voluntary program of reasonable land, soil, and water conservation practices to achieve compliance with water quality standards for nonpoint source activities for water bodies that are subject to a TMDL developed and implemented pursuant to this section.

(9) If the monitoring program provided under subsection (7) demonstrates that the TMDL is not achieving compliance with applicable water quality standards within 5 years after approval of a TMDL, the department shall conduct a formal evaluation of progress in restoring water quality and the status of reasonable land, soil, and water conservation practice implementation to determine if:

(a) the implementation of a new or improved phase of voluntary reasonable land, soil, and water conservation practice is necessary;

(b) water quality is improving but a specified time is needed for compliance with water quality standards; or

(c) revisions to the TMDL are necessary to achieve applicable water quality standards.

(10) Pending completion of a TMDL on a water body listed pursuant to 75-5-702:

(a) point source discharges to a listed water body may commence or continue, provided that:

(i) the discharge is in conformance with a discharge permit that reflects, in the manner and to the extent applicable for the particular discharge, the provisions of 75-5-303;

(ii) the discharge will not cause a decline in water quality for parameters by which the water body is impaired; and

(iii) minimum treatment requirements adopted pursuant to 75-5-305 are met;

(b) the issuance of a discharge permit may not be precluded because a TMDL is pending;

(c) new or expanded nonpoint source activities affecting a listed water body may commence and continue if those activities are conducted in accordance with reasonable land, soil, and water conservation practices; *and*

(d) for existing nonpoint source activities, the department shall continue to use educational nonpoint source control programs and voluntary measures as provided in subsections (5) and (6).

(11) This section may not be construed to prevent a person from filing an application or petition under 75-5-302, 75-5-310, or 75-5-312."

Section 7. Section 85-1-203, MCA, is amended to read:

"85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

(a) conduct studies;

(b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;

(c) perform research or employ other competent agencies to perform research on a contract basis; and

(d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork River basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) an estimate of the amount of surface and ground water needed to satisfy new future demands;

(c) analysis of the effects of frequent drought and *of* new or increased depletions on the availability of future water supplies;

(d) proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;

(e) possible sources of water to meet the needs of the state; and

(f) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.

(b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins.

(c) Each council may have up to 20 members.

(d) Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).

(5) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the ~~environmental quality council established in 5-16-101~~ *water policy committee established in 5-5-231* and to the legislature at the beginning of each regular session the state water plan or any

section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the ~~environmental quality council established in 5-16-101~~ *water policy committee established in 5-5-231* and solicit the advice of the ~~environmental quality council~~ *water policy committee* in carrying out its duties under this section."

Section 8. Section 85-1-621, MCA, is amended to read:

"85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the ~~environmental quality council established in 5-16-101~~ *water policy committee established in 5-5-231*."

Section 9. Section 85-2-105, MCA, is amended to read:

"85-2-105. ~~Environmental quality council — water policy~~ *Water policy committee* duties. (1) The ~~environmental quality council~~ *water policy committee established in 5-5-231* shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the ~~environmental quality council~~ *water policy committee* may:

(a) advise the legislature on the adequacy of the state's water policy and on important state, regional, national, and international developments that affect Montana's water resources;

(b) oversee the policies and activities of the department, other state executive agencies, and other state institutions as those policies and activities affect the water resources of the state;

(c) assist with interagency coordination related to Montana's water resources; and

(d) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the ~~environmental quality council~~ *water policy committee* shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water information system maintained by the natural resource information system under 90-15-305; and

(e) report to the legislature as provided in 5-11-210.

~~(4) The legislative services division shall provide staff assistance to the environmental quality council to carry out its water policy duties.~~"

Section 10. Section 85-2-281, MCA, is amended to read:

"85-2-281. (Temporary) Reporting requirements. The department and the water court shall:

(1) provide reports to the ~~environmental quality council~~ *water policy committee established in 5-5-231* at each meeting during a legislative interim on:

(a) the progress of the adjudication on a basin-by-basin basis; and

(b) the number of basins for which examination was completed during the reporting period;

(2) include a status report on the adjudication in their presentation to the applicable appropriation subcommittees during each legislative session including the number of basins for which examination was completed during the reporting period; and

(3) provide a budget that outlines how each of the entities will be funded in the next biennium, including general fund money and state special revenue funds. (Terminates June 30, 2020—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007.)"

Section 11. Section 85-2-350, MCA, is amended to read:

"85-2-350. Clark Fork River basin task force — duties — water management plan. (1) The governor's office shall designate an appropriate entity to convene and coordinate a Clark Fork River basin task force to prepare proposed amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin. The designated appropriate entity shall:

(a) identify the individuals and organizations, public, tribal, and private, that are interested in or affected by water management in the Clark Fork River basin;

(b) provide advice and assistance in selecting representatives to serve on the task force;

(c) develop, in consultation with the task force, appropriate opportunities for public participation in studies of water management in the Clark Fork River basin; and

(d) ensure that all ~~watershed~~ *watersheds* and viewpoints within the basin are adequately represented on the task force, including a representation from the following:

(i) the reach of the Clark Fork River in Montana below its confluence with the Flathead River;

(ii) the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of the Flathead River and the Clark Fork River;

(iii) the Flathead River basin upstream from Flathead Lake;

(iv) the reach of the Clark Fork River between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River;

(v) the Bitterroot River basin as defined in 85-2-344; and

(vi) the Upper Clark Fork River basin as defined in 85-2-335.

(2) Task force members shall serve 2-year terms and may serve more than one term. The Confederated Salish and Kootenai tribal government has the right to appoint a representative to the task force.

(3) The task force shall:

(a) identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;

(b) identify data gaps regarding basin water resources, especially ground water;

(c) coordinate water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;

(d) provide a forum for all interests to communicate about water issues;

(e) advise government agencies about water management and permitting activities in the Clark Fork River basin;

(f) consult with local and tribal governments within the Clark Fork River basin;

(g) make recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin; and

(h) report to:

(i) the department on a periodic basis;

(ii) the ~~environmental quality council~~ *water policy committee established in 5-5-231* annually; and

(iii) the appropriations subcommittee that deals with natural resources and commerce each legislative session."

Section 12. Section 85-2-436, MCA, is amended to read:

"85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource — change in appropriation rights by department of fish, wildlife, and parks until June 30, 2019. (1) The department of fish, wildlife, and parks may change an appropriation right, which it either holds in fee simple or leases, to an instream flow purpose of use and a defined place of use to protect, maintain, or enhance streamflows to benefit the fishery resource.

(2) The change in purpose of use or place of use must meet all *of* the criteria and process ~~of~~ *outlined in* 85-2-307 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process *described* in subsection (3) of this section to protect the rights of other appropriators from adverse impacts.

(3) (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

(b) Upon receipt of a correct and complete application for a change in purpose of use or place of use from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change

in appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a change in appropriation right authorization must include specific information on the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be measured.

(d) The maximum quantity of water that may be changed to instream flow is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows below the point of diversion that existed prior to the change in appropriation right.

(e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease of water made available from the development of a water conservation or storage project may be for a term equal to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number of times but not for more than 10 years for each term. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (3)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

(f) The department may modify or revoke the change in appropriation right authorization up to 10 years after it is approved if an appropriator other than an appropriator described in subsection (3)(i) submits new evidence not available at the time the change in appropriation right was approved that proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease or change in appropriation right under this section is the same as the priority of appropriation of the right that is changed to an instream flow purpose.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of a leased appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a change in appropriation right authorization under this section may not object to the exercise of the changed water right according to its terms or *to* the reversion of a leased appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan required under this section.

(4) (a) The department of fish, wildlife, and parks shall complete and submit to the department, commission, and ~~environmental quality council~~ *water policy committee established in 5-5-231* a biennial progress report by December 1 of odd-numbered years. This report must include a summary of all appropriation rights changed to an instream flow purpose in the last 2 years.

(b) For each change in appropriation right to an instream flow purpose, the report must include a copy of the change authorization issued by the department and must address:

(i) the length of the stream reach and how it is determined;

(ii) critical streamflow or volume needed to protect, maintain, or enhance streamflow to benefit the fishery resource;

(iii) the amount of water available for instream flow as a result of the change in appropriation right;

(iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods used to monitor use of water under each change in appropriation right.

(5) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired.

(6) (a) From May 8, 2007, through June 30, 2019, the department of fish, wildlife, and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

(b) After June 30, 2019, the department of fish, wildlife, and parks may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2019, the department of fish, wildlife, and parks may not enter into any new lease agreements pursuant to this section or renew any leases that expire after that date."

Section 13. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2015

CHAPTER NO. 123

[HB 90]

AN ACT REVISING WORKERS' COMPENSATION LAWS TO REQUIRE NOTICE TO CLAIMANTS OF CLAIMS EXAMINER CHANGES, UPDATE AND SIMPLIFY FEE SCHEDULE INFORMATION, PERMIT PAID TIME OFF TO BE USED FOR A WAITING PERIOD, AND MAKE ASSESSMENT PERIODS CURRENT FOR CERTAIN FUNDS; AMENDING SECTIONS 39-71-107, 39-71-704, 39-71-736, AND 39-71-915, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-107, MCA, is amended to read:

"39-71-107. Insurers to act promptly on claims — in-state claims examiners — third-party agents — penalties. (1) Pursuant to the public policy stated in 39-71-105, prompt claims handling practices are necessary to

provide appropriate service to injured workers, to employers, and to providers who are the customers of the workers' compensation system.

(2) All workers' compensation and occupational disease claims filed pursuant to the Workers' Compensation Act must be examined by a claims examiner in Montana. For a claim to be considered as examined by a claims examiner in Montana, the claims examiner examining the claim is required to determine the entitlement to benefits, authorize payment of all benefits due, manage the claim, have authority to settle the claim, maintain an office located in Montana, and examine Montana claims from that office. Use of a mailbox or maildrop in Montana does not constitute maintaining an office in Montana.

(3) An insurer shall maintain the documents related to each claim filed with the insurer under the Workers' Compensation Act at the Montana office of the claims examiner examining the claim in Montana until the claim is settled. The documents may be either original documents or duplicates of the original documents and must be maintained in a manner that allows the documents to be retrieved from that office and copied at the request of the claimant or the department. Settled claim files stored outside of the claims examiner's office must be made available within 48 hours of a request for the file. Electronic or optically imaged documents are permitted.

(4) (a) An insurer that uses a third-party agent to provide the insurer with claim examination services shall notify the department in writing of a change of a third-party agent at least 14 days in advance of the change.

(b) The department may assess a penalty not to exceed $200 against an insurer that does not comply with the advance notice provision in subsection (4)(a). The penalty may be assessed for each failure by an insurer to give the required advance notice.

(5) (a) Except for those medical benefits provided by a managed care organization or a preferred provider organization in Title 39, chapter 71, part 11, or paid pursuant to 39-71-704(4), an insurer that uses a third-party agent to review medical bills shall, when first using the agent's services and annually in subsequent years, obtain written certification from the agent that, for each bill the agent reviews, the agent agrees to calculate the payment due based on the Montana workers' compensation medical fee schedules, provided for under 39-71-704, that were in effect on the date the service was provided.

(b) Except for those medical benefits provided by a managed care organization or a preferred provider organization in Title 39, chapter 71, part 11, or paid pursuant to 39-71-704(4), an insurer whose agent neglects or fails to use the proper fee schedule may be assessed a penalty of not less than $200 or more than $1,000 for each bill that its agent reviews under a fee schedule other than the proper Montana fee schedule.

(c) An insurer that without good cause neglects or fails to pay undisputed medical bills on an accepted liability claim within 60 days of receipt of the bill may be assessed a penalty of not less than $200 or more than $1,000 for each bill that is the subject of a delay as provided in this subsection (5)(c).

(6) An insurer shall provide to the claimant:

(a) a written statement of the reasons that a claim is being denied at the time of denial;

(b) whenever benefits are denied to a claimant, a written explanation of how the claimant may appeal an insurer's decision; ~~and~~

(c) a written explanation of the amount of wage-loss benefits being paid to the claimant, along with an explanation of the calculation used to compute those

benefits. The explanation must be sent within 7 days of the initial payment of the benefit.

(d) a written notice advising the claimant when a change is made to the claims examiner handling the claim, including the name and contact information of the new claims examiner. The notice must be sent within 14 days of the change in claims examiner.

(7) An insurer shall:

(a) begin making payments that are due on a claim within 14 days of acceptance of the claim, unless the insurer promptly notifies the claimant that the insurer needs additional information in order to begin paying benefits and specifies the information needed; and

(b) pay settlements within 30 days of the date the department issues an order approving the settlement.

(8) An insurer may contest a penalty assessed pursuant to subsection (4) or (5) in a hearing conducted according to department rules. A party may appeal the final agency order to the workers' compensation court. The court shall review the order pursuant to the requirements of 2-4-704.

(9) The department may adopt rules to implement this section.

(10) (a) For the purposes of this section, "settled claim" means a department-approved or court-ordered compromise of benefits between a claimant and an insurer or a claim that was paid in full.

(b) The term does not include a claim in which there has been only a lump-sum advance of benefits."

Section 2. Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment of medical, hospital, and related services — fee schedules and hospital rates — fee limitation. (1) In addition to the compensation provided under this chapter and as an additional benefit separate and apart from compensation benefits actually provided, the following must be furnished:

(a) After the happening of a compensable injury or occupational disease and subject to other provisions of this chapter, the insurer shall furnish reasonable primary medical services, including prescription drugs for conditions that are a direct result of the compensable injury or occupational disease, for those periods specified in this section.

(b) Subject to the limitations in this chapter, the insurer shall furnish secondary medical services only upon a clear demonstration of cost-effectiveness of the services in returning the injured worker to actual employment.

(c) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(d) (i) The insurer shall reimburse a worker for reasonable travel, lodging, meals, and miscellaneous expenses incurred in travel to a health care provider for treatment of an injury pursuant to rules adopted by the department. Reimbursement must be at the rates allowed for reimbursement for state employees.

(ii) Rules adopted under subsection (1)(d)(i) must provide for submission of claims, within 90 days from the date of travel, following notification to the claimant of reimbursement rules, must provide procedures for reimbursement

receipts, and must require the use of the least costly form of travel unless the travel is not suitable for the worker's medical condition. The rules must exclude from reimbursement:

(A) 100 miles of automobile travel for each calendar month unless the travel is requested or required by the insurer pursuant to 39-71-605;

(B) travel to a health care provider within the community in which the worker resides;

(C) travel outside the community in which the worker resides if comparable medical treatment is available within the community in which the worker resides, unless the travel is requested by the insurer; and

(D) travel for unauthorized treatment or disallowed procedures.

(iii) An insurer is not liable for injuries or conditions that result from an accident that occurs during travel or treatment, except that the insurer retains liability for the compensable injuries and conditions for which the travel and treatment were required.

(e) Pursuant to rules adopted by the department, an insurer shall reimburse a catastrophically injured worker's family or, if a family member is unavailable, a person designated by the injured worker or approved by the insurer for travel assistance expenditures in an amount not to exceed $2,500 to be used as a match to those funds raised by community service organizations to help defray the costs of travel and lodging expenses incurred by the family member or designated person when traveling to be with the injured worker. These funds must be paid in addition to any travel expenses paid by an insurer for a travel companion when it is medically necessary for a travel companion to accompany the catastrophically injured worker.

(f) (i) The benefits provided for in this section terminate 60 months from the date of injury or diagnosis of an occupational disease. A worker may request reopening of medical benefits that were terminated under this subsection (1)(f) as provided in 39-71-717.

(ii) Subsection (1)(f)(i) does not apply to a worker who is permanently totally disabled as a result of a compensable injury or occupational disease or for the repair or replacement of a prosthesis furnished as a direct result of a compensable injury or occupational disease.

(g) Notwithstanding subsection (1)(a), the insurer may not be required to furnish, after the worker has achieved medical stability, palliative or maintenance care except:

(i) when provided to a worker who has been determined to be permanently totally disabled and for whom it is medically necessary to monitor administration of prescription medication to maintain the worker in a medically stationary condition;

(ii) when necessary to monitor the status of a prosthetic device; or

(iii) when the worker's treating physician believes that the care that would otherwise not be compensable under subsection (1)(g) is appropriate to enable the worker to continue current employment or that there is a clear probability of returning the worker to employment. A dispute regarding the compensability of palliative or maintenance care is considered a dispute over which, after mediation pursuant to department rule, the workers' compensation court has jurisdiction.

(h) Notwithstanding any other provisions of this chapter, the department, by rule and upon the advice of the professional licensing boards of practitioners affected by the rule, may exclude from compensability any medical treatment

that the department finds to be unscientific, unproved, outmoded, or experimental.

(2) (a) The department shall annually establish a schedule of fees for medical services that are necessary for the treatment of injured workers. Regardless of the date of injury, payment for medical services is based on the fee schedule rates in this section in effect on the date on which the medical service is provided. Charges submitted by providers must be the usual and customary charges for nonworkers' compensation patients. The department may require insurers to submit information to be used in establishing the schedule.

(b) (i) The department may not set the rate for medical services at a rate greater than 10% above the average of the conversion factors used by up to the top five insurers or third-party administrators providing group health insurance coverage within this state who use the resource-based relative value scale to determine fees for covered services. To be included in the rate determination, the insurer or third-party administrator must occupy at least 1% of the market share for group health insurance policies as reported annually to the state auditor.

(ii) The insurers or third-party administrators included under subsection (2)(b)(i) shall provide their standard conversion rates to the department.

(iii) The department may use the conversion rates only for the purpose of determining average conversion rates under this subsection (2).

(iv) The department shall maintain the confidentiality of the conversion rates.

~~(c) From July 1, 2011, through June 30, 2013, the fee schedules established in subsection (2)(b) must be based on the following standards as adopted by the centers for medicare and medicaid services and as adopted by the department on December 31, 2010, regardless of where services are provided:~~

~~(i) the American medical association current procedural terminology codes;~~

~~(ii) the healthcare common procedure coding system;~~

~~(iii) the medicare severity diagnosis-related groups;~~

~~(iv) the ambulatory payment classifications;~~

~~(v) the ratio of costs to charges for each hospital;~~

~~(vi) the national correct coding initiative edits; and~~

~~(vii) the relative value units as adjusted annually using the most recently published resource- based relative value scale.~~

~~(d)~~*(c)* ~~On or after July 1, 2013, the~~ *The* fee schedule rates established in subsection (2)(b)*, when adopted,* must be based on the following standards as adopted by the centers for medicare and medicaid services, regardless of where services are provided:

(i) the American medical association current procedural terminology codes, as those codes exist on ~~March 31~~ *January 1* of each year;

(ii) the healthcare common procedure coding system, as those codes and their relative weights exist on ~~March 31~~ *January 1* of each year;

(iii) the medicare severity diagnosis-related groups, as those codes and their relative weights exist on ~~October 1~~ *January 1* of each year;

(iv) the ambulatory payment classifications, as those codes and their relative weights exist on ~~March 31~~ *January 1* of each year;

(v) the ratio of costs to charges for each hospital, as those codes exist on ~~October 1~~ *January 1* of each year;

(vi) the national correct coding initiative edits, as those codes exist on ~~March 31~~ *January 1* of each year; and

(vii) the relative value units in the published resource-based relative value scale, as those codes exist on ~~March 31~~ *January 1* of each year.

~~(e)~~*(d)* The department may establish additional codes and coding standards for use by providers when billing for medical services under this section.

~~(f) The rates in effect through June 30, 2013, may not be less than the rates for medical services in effect as of December 31, 2010.~~

(3) (a) The department shall establish by rule evidence-based utilization and treatment guidelines for primary and secondary medical services. There is a rebuttable presumption that the adopted utilization and treatment guidelines establish compensable medical treatment for an injured worker.

(b) An insurer is not responsible for treatment or services that do not fall within the utilization and treatment guidelines adopted by the department unless the provider obtains prior authorization from the insurer. If prior authorization is not requested or obtained from the insurer, an injured worker is not responsible for payment of the medical treatment or services.

(c) The department shall hire a medical director. The department may establish by rule an independent medical review process for treatment or services denied by an insurer pursuant to this subsection (3) prior to mediation under 39-71-2401.

(d) The department, in consultation with health care providers with relevant experience and education, shall provide for an annual review of the evidence-based utilization and treatment guidelines to consider amendments or changes to the guidelines.

(4) For services available in Montana, insurers may pay facilities located outside Montana according to the workers' compensation fee schedule of the state where the medical service is performed.

(5) (a) An insurer shall make payments at the fee schedule rate within 30 days of receipt of medical bills for which a claim has been accepted and for which no other disputes exist. Disputes must be defined by the department by rule.

(b) Any unpaid balance under this subsection (5) accrues interest at 12% a year or 1% a month or a fraction of a month. If the charge is not paid within 30 days, interest on the unpaid balance accrues from the date of receipt of the original billing.

(6) Once a determination has been made regarding the correct reimbursement amount, any overpayment made to a health care provider must be reimbursed to the insurer within 30 days of the determination. Any reimbursement amount remaining unpaid after 30 days accrues interest at 12% a year or 1% a month or a fraction of a month. Interest on the reimbursement amount remaining unpaid accrues from the date of receipt of the determination of the correct reimbursement amount.

(7) For a critical access hospital licensed pursuant to Title 50, chapter 5, the rate for services is the usual and customary charge.

(8) Payment pursuant to reimbursement agreements between managed care organizations or preferred provider organizations and insurers is not bound by the provisions of this section.

(9) After mediation pursuant to department rules, an unresolved dispute between an insurer and a health care provider regarding the amount of a fee for medical services may be brought before the workers' compensation court.

(10) (a) After the initial visit, the worker is responsible for $25 of the cost of each subsequent visit to a hospital emergency department for treatment relating to a compensable injury or occupational disease.

(b) "Visit", as used in this subsection (10), means each time that the worker obtains services relating to a compensable injury or occupational disease from:

(i) a treating physician;

(ii) a physical therapist;

(iii) a psychologist; or

(iv) hospital outpatient services available in a nonhospital setting.

(c) A worker is not responsible for the cost of a subsequent visit pursuant to subsection (10)(a) if the visit is for treatment requested by an insurer."

Section 3. Section 39-71-736, MCA, is amended to read:

"39-71-736. Compensation — from what dates paid. (1) (a) Except as provided in subsection (1)(c), compensation may not be paid for the first 32 hours or 4 days' loss of wages, whichever is less, that the worker is totally disabled and unable to work because of an injury. A worker is eligible for compensation starting with the 5th day.

(b) Separate benefits of medical and hospital services must be furnished from the date of injury.

(c) If the worker is totally disabled and unable to work in any capacity for 21 days or longer, compensation must be paid retroactively to the first day of total wage loss unless the worker waives the payment as provided in subsection (2)(b)(ii).

(2) (a) For the purpose of this section, except as provided in subsection (3), a worker is not considered to be entitled to compensation benefits if the worker is receiving sick leave benefits, except that each day for which the worker elects to receive sick leave counts 1 day toward the 4-day waiting period.

(b) A worker who is entitled to receive retroactive compensation benefits pursuant to subsection (1)(c) but who took sick leave as provided in subsection (2)(a) may elect to either:

(i) repay the employer the amount of salary for the sick leave received; or

(ii) waive the retroactive payment of benefits attributable to any days or hours for which the worker received sick leave.

(3) Augmentation of temporary total disability benefits with sick leave by an employer pursuant to a collective bargaining agreement may not disqualify a worker from receiving temporary total disability benefits.

(4) Receipt of vacation leave *or paid time off leave, other than sick leave,* by a worker may not affect the worker's eligibility for temporary total disability benefits."

Section 4. Section 39-71-915, MCA, is amended to read:

"39-71-915. Assessment of insurer — employers — definition — collection. (1) As used in this section, "paid losses" means the following benefits paid during the preceding calendar year for injuries covered by the Workers' Compensation Act without regard to the application of any deductible, regardless of whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

(b) except for medical benefits in excess of $200,000 for each occurrence that are exempt from assessment, total medical benefits paid for medical treatment

rendered to an injured worker, including hospital treatment and prescription drugs.

(2) The fund must be maintained by assessing each plan No. 1 employer, each employer insured by a plan No. 2 insurer, plan No. 3, the state fund, with respect to claims arising before July 1, 1990, and each employer insured by plan No. 3, the state fund. The assessment amount is the total amount *from April 1 of the previous year through March 31 of the current year* paid by the fund ~~in the preceding fiscal year and~~ *plus* the expenses of administration less other realized income that is deposited in the fund. The total assessment amount to be collected must be allocated among plan No. 1 employers, plan No. 2 employers, plan No. 3, the state fund, and plan No. 3 employers, based on a proportionate share of paid losses for the calendar year preceding the year in which the assessment is collected. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(3) On or before May 31 each year, the department shall notify each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund, of the amount to be assessed for the ensuing fiscal year. The amount to be assessed against the state fund must separately identify the amount attributed to claims arising before July 1, 1990, and the amount attributable to state fund claims arising on or after July 1, 1990. On or before April 30 each year, the department, in consultation with the advisory organization designated under 33-16-1023, shall notify plan No. 2 insurers and plan No. 3 of the premium surcharge rate to be effective for policies written or renewed on and after July 1 in that year.

(4) The portion of the plan No. 1 assessment assessed against an individual plan No. 1 employer is a proportionate amount of total plan No. 1 paid losses during the preceding calendar year that is equal to the percentage that the total paid losses of the individual plan No. 1 employer bore to the total paid losses of all plan No. 1 employers during the preceding calendar year.

(5) The portion of the assessment attributable to state fund claims arising before July 1, 1990, is the proportionate amount that is equal to the percentage that total paid losses for those claims during the preceding calendar year bore to the total paid losses for all plans in the preceding calendar year. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the subsequent injury fund assessment that is attributable to claims arising before July 1, 1990.

(6) The remaining portion of the assessment must be paid by way of a surcharge on premiums paid by employers being insured by a plan No. 2 insurer or plan No. 3, the state fund, for policies written or renewed annually on or after July 1. The surcharge rate must be computed by dividing the remaining portion of the assessment by the total amount of premiums paid by employers insured under plan No. 2 or plan No. 3 in the previous calendar year. The numerator for the calculation must be adjusted as provided by subsection (9).

(7) Each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, the state fund, shall collect from its policyholders the assessment premium surcharge provided for in subsection (6). When collected, the assessment premium surcharge may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers. The total of this assessment premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted by the insured employer and must be identified as "workers' compensation subsequent injury fund surcharge". Each assessment premium

surcharge must be shown as a percentage of the total workers' compensation policyholder premium. This assessment premium surcharge must be collected at the same time and in the same manner that the premium for the coverage is collected. The assessment premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the assessment premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium. If an employer fails to remit to an insurer the total amount due for the premium and assessment premium surcharge, the amount received by the insurer must be applied to the assessment premium surcharge first and the remaining amount applied to the premium due.

(8) (a) All assessments paid to the department must be deposited in the fund.

(b) Each plan No. 1 employer shall pay its assessment by July 1.

(c) Each plan No. 2 insurer and plan No. 3, the state fund, shall remit to the department all assessment premium surcharges collected during a calendar quarter by not later than 20 days following the end of the quarter.

(d) The state fund shall pay the portion of the assessment attributable to claims arising before July 1, 1990, by July 1.

(e) If a plan No. 1 employer, a plan No. 2 insurer, or plan No. 3, the state fund, fails to timely pay to the department the assessment or assessment premium surcharge under this section, the department may impose on the plan No. 1 employer, the plan No. 2 insurer, or plan No. 3, the state fund, an administrative fine of $100 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the fund.

(9) The amount of the assessment premium surcharge actually collected pursuant to subsection (7) must be compared each year to the amount assessed and upon which the premium surcharge was calculated. The amount undercollected or overcollected in any given year must be used as an adjustment to the numerator provided for by subsection (6) for the following year's assessment premium surcharge.

(10) If the total assessment is less than $1 million for any year, the department may defer the assessment amount for that year and add that amount to the assessment amount for the subsequent year."

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved March 27, 2015

CHAPTER NO. 124

[HB 158]

AN ACT GENERALLY REVISING SCHOOL IMMUNIZATION LAWS; ADDING VARICELLA TO THE LIST OF REQUIRED IMMUNIZATIONS; REVISING REQUIREMENTS RELATED TO THE PERTUSSIS VACCINATION; AND AMENDING SECTIONS 20-5-403 AND 20-5-404, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-403, MCA, is amended to read:

"20-5-403. Immunization required — release and acceptance of immunization records. (1) The governing authority of any school other than a

postsecondary school may not allow a person to attend as a pupil unless the person:

(a) has been immunized against *varicella,* diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department~~, except that pertussis vaccination is not required for a person 7 years of age or older~~;

(b) has been immunized against Haemophilus influenza type "b" before enrolling in a preschool if under 5 years of age;

(c) qualifies for conditional attendance; or

(d) files for an exemption.

(2) (a) The governing authority of a postsecondary school may not allow a person to attend as a pupil unless the person:

(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or

(ii) files for an exemption.

(b) The governing authority of a postsecondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by this part.

(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the school shall retain a certified copy for the permanent record and send the original immunization records for the pupil to the school district to which the pupil transfers."

Section 2. Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional attendance. The governing authority of a school other than a postsecondary school may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of ~~polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, Haemophilus influenza type "b", and tetanus vaccine~~ *the vaccine for each disease listed in 20-5-403,* except that ~~pertussis vaccine is not required for a person 7 years of age or older and~~ Haemophilus influenza type "b" vaccine is required only for children under 5 years of age."

Approved March 27, 2015

CHAPTER NO. 125

[HB 225]

AN ACT REVISING FUNERAL TRUST BANKING PROVISIONS; EXTENDING THE TIME PERIOD WITHIN WHICH MONEY MUST BE DEPOSITED; REMOVING A REQUIREMENT THAT A DEPOSITORY ENTITY HAVE ITS PRINCIPAL PLACE OF BUSINESS IN THIS STATE; AND AMENDING SECTION 37-19-828, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-19-828, MCA, is amended to read:

"37-19-828. Trust fund — deposit of money. (1) (a) A party that provides services pursuant to a contract for a prearranged funeral or related services and

that receives money under the contract shall deposit the money within ~~3~~ *10* business days of receipt in a banking institution or invest the money in the stock of a savings or building and loan association or in the shares of a credit union.

(b) The banking institution, savings or building and loan association, or credit union must ~~have its principal place of business~~ *maintain an office* in this state and ~~must~~ be organized under the laws of this state*, of another state,* or of the United States.

(c) Deposits or investments made as provided in this section must be insured by an instrumentality of the federal government.

(2) Deposits or investments made pursuant to this section constitute a trust fund for the benefit of the person contracting for the prearranged funeral or related services. The money must be placed in a separate account in the name of the depositor as trustee for the person contracting for the prearranged funeral or related services."

Approved March 27, 2015

CHAPTER NO. 126

[HB 246]

AN ACT REQUIRING THAT CERTAIN FEES COLLECTED FOR OVERSIZE OR OVERWEIGHT LOAD PERMITS BE FORWARDED TO THE DEPARTMENT OF TRANSPORTATION FOR DEPOSIT IN THE HIGHWAY NONRESTRICTED ACCOUNT; AMENDING SECTION 61-10-126, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-10-126, MCA, is amended to read:

"61-10-126. Deposit of fees. All fees collected under 61-10-101 through 61-10-104 and 61-10-106 through 61-10-125 must be forwarded to the department of ~~revenue~~ *transportation* for deposit in the highway nonrestricted account in the state special revenue fund."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 27, 2015

CHAPTER NO. 127

[HB 354]

AN ACT CREATING A LOSS MITIGATION PROGRAM AND PROVIDING CONDITIONS FOR ITS USE; REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO APPROVE ANY DISTRIBUTION OVER $30,000 PER REQUEST TO A SINGLE AGENCY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Loss mitigation program — purpose. (1) There is a loss mitigation program administered by the department of administration.

(2) Funds for the program must be used by the department solely for the purpose of mitigating losses generated through claims against the state related to property, automobiles, aviation, and general liability.

(3) An agency seeking funds from the loss mitigation program shall present to the department a written request that:

(a) identifies the risk of loss and potential costs associated with the risk of loss;

(b) identifies matching funds from the agency to address or reduce the risk of loss; and

(c) provides a detailed explanation of how the funds will be spent to mitigate the risk of loss.

(4) Prior to distributing funds for an agency seeking funds from the loss mitigation program, the department of administration shall review the information provided by the agency and confirm the existence of a significant risk of loss to be mitigated with the requested funds.

(5) A distribution over $30,000 for each written request, not including matching funds available to the agency, from the loss mitigation program to a single agency is subject to approval by the office of budget and program planning.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 9, part 2, and the provisions of Title 2, chapter 9, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved March 27, 2015

CHAPTER NO. 128

[HB 387]

AN ACT EXTENDING THE TIME PERIOD WITHIN WHICH A TEMPORARY BUS ROUTE CHANGE MUST BE CONFIRMED BY THE COUNTY TRANSPORTATION COMMITTEE; AMENDING SECTION 20-10-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-10-132, MCA, is amended to read:

"20-10-132. Duties of county transportation committee. (1) It is the duty of the county transportation committee to:

(a) establish the transportation service areas within the county, without regard to district boundary lines, for each district that operates a school bus transportation program;

(b) except as provided in subsection (2), approve, disapprove, or adjust the school bus routes submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1)(a);

(c) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation because of isolated conditions of the eligible transportee's residence;

(d) conduct hearings to establish the facts of transportation controversies that have been appealed from the decision of the trustees and act on the appeals on the basis of the facts established at the hearing; and

(e) determine if geographic conditions make it impractical for a child to attend school in the district of residence, in accordance with 20-5-321(1)(b).

(2) In an emergency situation, a temporary bus route change may be approved by the county superintendent. A bus route change approved by the county superintendent must be confirmed by the county transportation

committee within ~~30~~ *90* days in order to be continued for a period longer than ~~30~~ *90* days.

(3) When the county transportation committee reviews a request for a new bus route or a change to an existing route, the committee shall consider the following:

(a) a map of the existing and proposed bus route;

(b) a description of turnarounds;

(c) conditions affecting safety;

(d) the total mileage and change in mileage of the affected bus route;

(e) the approximate total cost;

(f) reasons for the proposed bus route change;

(g) the number of children to be served;

(h) a copy of the official minutes of the meeting at which the school trustees approved the new bus route or route change; and

(i) any other information that the county transportation committee considers relevant.

(4) When an application for increased reimbursement for individual transportation is presented to the county transportation committee, it must include a signed individual transportation contract and a copy of the official minutes of the meeting at which the trustees acted upon the request for increased reimbursement.

(5) After a factfinding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal the decision to the superintendent of public instruction who shall issue a decision on the basis of the facts established at the county transportation committee hearing."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 27, 2015

CHAPTER NO. 129

[HB 393]

AN ACT ALLOWING THE BOARD OF OIL AND GAS CONSERVATION TO CERTIFY THE AMOUNT OF CARBON DIOXIDE STORED INCIDENTALLY THROUGH AN OIL OR GAS ENHANCED RECOVERY PROJECT.

Be it enacted by the Legislature of the State of Montana:

Section 1. Incidental carbon dioxide storage — certification. (1) An operator or producer of an oil or gas enhanced recovery project may request that the board certify the quantity of carbon dioxide being stored incidentally through the enhanced recovery project.

(2) The operator or producer shall submit a plan to account for the incidentally stored carbon dioxide on a form provided by the board.

(3) Upon approval of the plan, the board shall certify the amount of carbon dioxide incidentally stored through the enhanced recovery project.

(4) An application for certification pursuant to this section is not an application for a geologic storage project or a carbon dioxide injection well for injection in a geologic storage reservoir. Certification of incidentally stored carbon dioxide pursuant to this section does not convert an enhanced recovery project to a geologic storage project and does not subject the enhanced recovery

project to the requirements of the carbon dioxide injection well regulations or geologic storage reservoir regulations pursuant to this chapter.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11, part 1, apply to [section 1].

Approved March 26, 2015

CHAPTER NO. 130

[SB 22]

AN ACT GENERALLY REVISING BEHAVIORAL HEALTH OCCUPATION LAWS; REVISING LAWS CONCERNING SOCIAL WORK, PROFESSIONAL COUNSELING, AND MARRIAGE AND FAMILY THERAPY; RENAMING THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS TO THE BOARD OF BEHAVIORAL HEALTH; PROVIDING FOR REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS SOCIAL WORKERS, PROFESSIONAL COUNSELORS, OR MARRIAGE AND FAMILY THERAPISTS; REQUIRING BACKGROUND CHECKS FOR APPLICANTS FOR MARRIAGE AND FAMILY THERAPY LICENSURE; AND AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-22-305, 37-23-102, 37-23-201, 37-37-102, AND 37-37-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1744, MCA, is amended to read:

"2-15-1744. Board of ~~social work examiners and professional counselors~~ *behavioral health*. (1) (a) The governor shall appoint, with the consent of the senate, a board of ~~social work examiners and professional counselors~~ *behavioral health* consisting of seven members.

(b) Three members must be licensed social workers, and three must be licensed professional counselors.

(c) One member must be appointed from and represent the general public and may not be engaged in social work.

(2) The board is allocated to the department for administrative purposes only as provided in 2-15-121.

(3) Members shall serve staggered 4-year terms."

Section 2. Section 37-17-104, MCA, is amended to read:

"37-17-104. Exemptions. (1) Except as provided in subsection (2), this chapter does not prevent:

(a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

(b) the activities, services, and use of an official title clearly delineating the nature and level of training on the part of a person in the employ of a federal, state, county, or municipal agency or of other political subdivisions or an educational institution, business corporation, or research laboratory insofar as these activities and services are a part of the duties of the office or position within the confines of the agency or institution;

(c) the activities and services of a student, intern, or resident in psychology pursuing a course of study at an accredited university or college or working in a generally recognized training center if these activities and services constitute a part of the supervised course of study of the student, intern, or resident in psychology;

(d) the activities and services of a person who is not a resident of this state in rendering consulting psychological services in this state when these services are rendered for a period which does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of that person's residence to perform these activities and services. However, these persons shall report to the department the nature and extent of the services in this state prior to providing those services if the services are to exceed 10 days in a calendar year.

(e) a person authorized by the laws of the state or country of the person's former residence to perform activities and services, who has recently become a resident of this state and who has submitted a completed application for a license in this state, from performing the activities and services pending disposition of the person's application; and

(f) the offering of lecture services.

(2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

(3) The board of ~~social work examiners and professional counselors~~ *behavioral health* shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations. ~~Final rules must be adopted by October 1, 2010.~~ A qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from the date of adoption of the rules."

Section 3. Section 37-22-102, MCA, is amended to read:

"37-22-102. Definitions. As used in this chapter*, the following definitions apply*:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established under 2-15-1744.

(2) "Department" means the department of labor and industry.

(3) "Licensee" means a person licensed under this chapter.

(4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision of social services;

(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

(e) helping communities to organize to provide or improve social and health services;

(f) research or teaching related to social work; and

(g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment.

(6) "Social worker licensure candidate" means a person who is registered pursuant to [section 5] to engage in social work and earn supervised work experience necessary for licensure."

Section 4. Section 37-22-305, MCA, is amended to read:

"37-22-305. Representation to public as licensed clinical social worker — limitations on use of title — limitations on practice. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical social worker". Except as provided in subsection (2), a person may not represent that the person is a licensed clinical social worker by adding the letters "LSW" or "LCSW" after the person's name or by any other means unless licensed under this chapter.

(2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed social worker" or "LSW" may use the title "licensed clinical social worker" or "LCSW".

(3) Subsection (1) does not prohibit:

(a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral counselors, educators, or the general public engaged in social work like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "licensed social worker" or "licensed clinical social worker";

(b) activities, services, and use of an official title by a person in the employ of or under a contract with a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;

(c) an employer from performing social work like activities performed solely for the benefit of employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services by a person who is not a resident of this state that are rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law of the state or country of residence to perform the activities and services. However, the person shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a

license within 90 days of taking up residency in this state, and is licensed to perform the activities and services in the state of former residence.*; or*

(g) an activity or service of a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate."

Section 5. Social worker licensure candidate — registration requirements — renewal — standards. (1) A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as a social worker licensure candidate in order to engage in social work and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307;

(d) proof of good moral character; and

(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in social work under the conditions set by the board and shall use the title of "clinical social worker licensure candidate".

(4) A person shall register annually as a social worker licensure candidate. The board may limit the number of years that a person may act as a social worker licensure candidate.

(5) A social worker licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a social worker licensure candidate.

(7) The board may deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a social worker licensure candidate.

Section 6. Section 37-23-102, MCA, is amended to read:

"37-23-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established under 2-15-1744.

(2) "Licensee" means a person licensed under this chapter.

(3) "Professional counseling" means engaging in methods and techniques that include:

(a) counseling, which means the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and

remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

(d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources.

(4) "Professional counselor licensure candidate" means a person who is registered pursuant to [section 8] to engage in professional counseling and earn supervised work experience necessary for licensure."

Section 7. Section 37-23-201, MCA, is amended to read:

"37-23-201. Representation or practice as licensed clinical professional counselor — license required. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor" or "professional counselor".

(2) Except as provided in subsection (3), a person may not represent that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the person's name or by any other means, engage in the practice of professional counseling, or represent that the person is engaged in the practice of professional counseling, unless licensed under this chapter.

(3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

(4) Subsection (2) does not prohibit:

(a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a federal agency, or addiction counselor licensed pursuant to Title 37, chapter 35, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is engaging in the practice of professional counseling;

(b) an activity or service or use of an official title by a person employed by or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activity or service constitutes a part of the supervised course of study;

(e) an activity or service of a person who is not a resident of this state, which activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the person is authorized under the law of the state or country of residence to perform the activity or service. However, the person shall report to the department of labor and industry the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

(f) pending disposition of the application for a license, the activity or service by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform the activity or service in the state of the person's former residence;

(g) an activity or service of a person who is ~~working to satisfactorily complete the 3,000 hours of counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned graduate program, as required by 37-23-202(1)(a), or is working to complete the 3,000 hours of social work experience as required by 37-22-301~~ *a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate*; or

(h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed psychologist when performing the activity or service in a manner consistent with the person's license and the code of ethics of the person's profession."

Section 8. Professional counselor licensure candidate — registration — renewal — standards. (1) A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as a professional counselor licensure candidate in order to engage in professional counseling and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307;

(d) proof of good moral character; and

(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in professional counseling under the conditions set by the board and shall use the title of "professional counselor licensure candidate".

(4) A person shall register annually as a professional counselor licensure candidate. The board may limit the number of years that a person may act as a professional counselor licensure candidate.

(5) A professional counselor licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a professional counselor licensure candidate.

(7) The board may deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a professional counselor licensure candidate.

Section 9. Section 37-37-102, MCA, is amended to read:

"37-37-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established in 2-15-1744.

(2) "Department" means the department of labor and industry.

(3) "Licensee" means a person licensed under this chapter.

(4) "Marriage and family therapist licensure candidate" means a person who is registered pursuant to [section 11] to engage in marriage and family therapy and earn supervised work experience necessary for licensure.

~~(4)~~*(5)* "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders within the context of interpersonal relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family system theories and techniques, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples, and families.

~~(5)~~*(6)* "Practice of marriage and family therapy" means the provision of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either directly or through public or private organizations.

~~(6)~~*(7)* "Qualified supervisor" means a supervisor determined by the board to meet standards established by the board for supervision of clinical services.

~~(7)~~*(8)* "Recognized educational institution" means:

(a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized by the board and by a regional accrediting body; or

(b) a postgraduate training institute accredited by the commission on accreditation for marriage and family therapy education."

Section 10. Section 37-37-201, MCA, is amended to read:

"37-37-201. License requirements — exemptions — ~~temporary permit~~. (1) An applicant for a license shall pay an application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed by the board holding dual licenses. An applicant for a license under this section shall also complete an application on a form provided by the department and provide documentation to the board that the applicant:

(a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution or a degree from a program accredited by the commission on accreditation for marriage and family therapy education; or

(ii) has a graduate degree in an allied field from a recognized educational institution and graduate level work that the board determines to be the

equivalent of a master's degree in marriage and family therapy or marriage and family counseling;

(b) has successfully passed an examination prescribed by the board;

(c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a); and

(d) is of good moral character. Being of good moral character includes in its meaning that the applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a nature that renders the applicant unfit to practice marriage and family therapy.

(2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

~~(2)~~*(4)* An applicant is exempt from the examination requirement in subsection (1)(b) if the board is satisfied that:

(a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and has passed an examination similar to that required by the board; *or*

~~(b) for applications received before July 1, 2011, the applicant is a clinical member of the American association for marriage and family therapy and is a current resident of this state; or~~

~~(c)~~*(b)* the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the state for a period prescribed by the board.

~~(3)~~*(5)* A person is exempt from licensure as a marriage and family therapist if the person practices marriage and family therapy:

(a) under qualified supervision in a training institution or facility or other supervisory arrangements approved by the board and uses the title of intern;

(b) as part of the person's duties as a member of the clergy or priesthood; or

(c) ~~under a temporary permit that the board may issue under rules adopted to allow a 1-year temporary permit to an applicant for licensure pending examination for a license or processing of the application for a license. An applicant with a temporary permit under this subsection shall use the title of "licensed marriage and family therapy candidate"~~ *while registered as a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate*."

Section 11. Marriage and family therapist licensure candidate — registration — renewal — standards. (1) A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as a marriage and family

therapist licensure candidate in order to engage in marriage and family therapy and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307;

(d) proof of good moral character; and

(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in marriage and family therapy under the conditions set by the board and shall use the title of "marriage and family therapist licensure candidate".

(4) A person shall register annually as a marriage and family therapist licensure candidate. The board may limit the number of years that a person may act as a marriage and family therapist licensure candidate.

(5) A marriage and family therapist licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's authorization to act as a marriage and family therapist licensure candidate.

(7) The board may deny a license or issue a probationary license to an applicant for licensure based on the applicant's conduct as a marriage and family therapist licensure candidate.

Section 12. Name change — directions to code commissioner. Wherever a reference to the board of social work examiners and professional counselors appears in legislation enacted by the 2015 legislature, the code commissioner is directed to change it to a reference to the board of behavioral health.

Section 13. Codification instruction. (1) [Section 5] is intended to be codified as an integral part of Title 37, chapter 22, part 3, and the provisions of Title 37, chapter 22, part 3, apply to [section 5].

(2) [Section 8] is intended to be codified as an integral part of Title 37, chapter 23, part 2, and the provisions of Title 37, chapter 23, part 2, apply to [section 8].

(3) [Section 11] is intended to be codified as an integral part of Title 37, chapter 37, part 2, and the provisions of Title 37, chapter 37, part 2, apply to [section 11].

Approved March 27, 2015

CHAPTER NO. 131

[SB 97]

AN ACT REVISING THE PROCESS TO MODIFY CLASSIFICATION OF STATE WATER BODIES; REMOVING RESTRICTIONS ON THE ADOPTION AND REVISION OF CLASSIFICATIONS; REMOVING THE EXCEPTION

FOR TEMPORARY CLASSIFICATIONS; AND AMENDING SECTION 75-5-302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-302, MCA, is amended to read:

"75-5-302. ~~Revised classifications not to lower water quality standards — exception~~ *Revising classifications in accordance with existing, present, and future most beneficial uses of water bodies.* ~~(1) Except as provided in subsection (2), in revising classifications or standards or in adopting new classifications or standards, the board may not formulate standards of water quality or classify state water in a manner that lowers the water quality standard applicable to state water below the level applicable under the classifications and standards adopted unless the board finds that a particular state water has been classified under a standard or classification of water quality that is higher than the actual water quality that existed at the time of classification and only if the action is taken pursuant to 75-5-307.~~ When the board or department is presented with facts indicating that a body of water is ~~misclassified~~ *not properly classified in accordance with its existing, present, and future most beneficial uses*, the ~~board~~ *department* shall, within 90 days, *evaluate the facts and advise the board whether the water body is not properly classified. If the board determines that the water body is not properly classified, the board shall* initiate rulemaking to ~~correct the misclassification~~ *properly classify the water body in accordance with its existing, present, and future most beneficial uses. Board action pursuant to this section is subject to 75-5-307*.

~~(2) Establishment of a temporary water quality standard or classification does not require a finding that the affected state water was classified under a standard or classification that was higher than the actual water quality that existed at the time of the prior classification.~~"

Approved March 27, 2015

CHAPTER NO. 132

[SB 105]

AN ACT GENERALLY REVISING THE ADMINISTRATION OF UNEMPLOYMENT INSURANCE BY THE DEPARTMENT OF LABOR AND INDUSTRY; CLARIFYING EXCLUSIONS FROM THE DEFINITION OF "EMPLOYMENT"; CLARIFYING WHEN CERTAIN WAGE ADJUSTMENTS CANNOT BE MADE; SPECIFYING THE GROUNDS FOR EMPLOYER APPEALS OF CLASSIFICATION AND CONTRIBUTION RATES; CLARIFYING EXPERIENCE RATING FOR CERTAIN EMPLOYERS; REVISING NOTICE PROCEDURES; AMENDING SECTIONS 2-15-1704, 15-31-150, 39-51-201, 39-51-204, 39-51-1110, 39-51-1206, 39-51-1212, 39-51-1219, 39-51-2402, 39-51-2403, 39-51-2404, AND 39-51-2410, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1704, MCA, is amended to read:

"2-15-1704. ~~Board of labor appeals~~ *Unemployment insurance appeals board* — allocation — composition — function — quasi-judicial. (1) There is ~~a board of labor appeals~~ *an unemployment insurance appeals board*.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The board is composed of three members of the public who are not employees of the state government, appointed by the governor as prescribed in 2-15-124.

(4) The governor may appoint a substitute board member to the board who is subject to the same qualifications and confirmation requirements as the regular board members as prescribed in 2-15-124 and subsection (3) of this section. The substitute board member may serve in place of any regular board member who is unable to attend a board meeting and participate in the proceedings and decisions of that board meeting. The substitute board member is entitled to the same compensation and per diem as the regular board members.

(5) The board is designated as a quasi-judicial board for purposes of 2-15-124."

Section 2. Section 15-31-150, MCA, is amended to read:

"15-31-150. Credit for research expenses and research payments. (1) (a) There is a credit against taxes otherwise due under this chapter for increases in qualified research expense and basic research payments for research conducted in Montana. Except as provided in this section, the credit must be determined in accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as that section read on July 1, 1996, or as subsequently amended.

(b) For purposes of the credit, the:

(i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;

(ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;

(iii) special rules in 26 U.S.C. 41(g) do not apply; and

(iv) termination date provided for in 26 U.S.C. 41(h)(1)(B) does not apply.

(2) The credit allowed under this section for a tax year may not exceed the tax liability under chapter 30 or 31. A credit may not be refunded if a taxpayer has tax liability less than the amount of the credit.

(3) The credit allowed under this section may be used as a carryback against taxes imposed under chapter 30 or 31 for the 2 preceding tax years and may be used as a carryforward against taxes imposed by chapter 30 or 31 for the 15 succeeding tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) A taxpayer may not claim a current year credit under this section after December 31, 2010. However, any unused credit may be carried back or forward as provided in subsection (3).

(5) A corporation, an individual, a small business corporation, a partnership, a limited liability partnership, or a limited liability company qualifies for the credit under this section. If the credit is claimed by a small business corporation, a partnership, a limited liability partnership, or a limited liability company, the credit must be attributed to the individual shareholders, partners, members, or managers in the same proportion used to report income or loss for state tax purposes. The allocations in 26 U.S.C. 41(f) do not apply to this section.

(6) For purposes of calculating the credit, the following definitions apply:

(a) "Gross receipts" means:

(i) for a corporation that has income from business activity that is taxable only within the state, all gross sales less returns of the corporation for the tax year; and

(ii) for a corporation that has income from business activity that is taxable both within and outside of the state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

(b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d)~~,~~ but is limited to research conducted in Montana.

(c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b)~~,~~ but includes only the sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

(d) "Supplies" has the meaning provided in 26 U.S.C. 41(b)(2)(C)~~,~~ but includes only those supplies used in the conduct of qualified research in Montana.

(e) (i) "Wages" has the meaning provided in 39-51-201, except as provided in subsection (6)(e)(ii) of this section, and includes only those wages paid or incurred for an employee for qualified services performed by the employee in Montana.

(ii) Notwithstanding the exception to the definition of wages in ~~39-51-201(24)(b)(v)~~ *39-51-201(25)(b)(v),* for a self-employed individual and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the employee.

(7) The department shall adopt rules, prepare forms, maintain records, and perform other duties necessary to implement this section. In adopting rules to implement this section, the department shall conform the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except to the extent that the regulations need to be modified to conform to this section."

Section 3. Section 39-51-201, MCA, is amended to read:

"39-51-201. General definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) "Annual payroll" means the total amount of wages paid by an employer, regardless of the time of payment, for employment during a calendar year.

(2) "Base period" means:

(a) the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year;

(b) if the individual does not have sufficient wages to qualify for benefits under subsection (2)(a), the 4 most recently completed calendar quarters immediately preceding the first day of the individual's benefit year;

(c) in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the period applicable under the unemployment law of the paying state; or

(d) for an individual who fails to meet the qualifications of 39-51-2105 or a similar statute of another state because of a temporary total disability, as defined in 39-71-116, or a similar statute of another state or the United States, the first 4 quarters of the last 5 completed calendar quarters preceding the disability if a claim for unemployment benefits is filed within 24 months of the date on which the individual's disability was incurred.

(3) "Benefit year" means the 52-consecutive-week period beginning with the first day of the calendar week in which an individual files a valid claim for benefits, except that the benefit year is 53 weeks if filing a new valid claim would

result in overlapping any quarter of the base period of a previously filed new claim. A subsequent benefit year may not be established in Montana until the expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the benefit year is the period applicable under the unemployment law of the paying state.

(4) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to the individual's unemployment.

(5) "Board" means the ~~board of labor appeals~~ *unemployment insurance appeals board* provided for in Title 2, chapter 15, part 17.

(6) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(7) "Contributions" means the money payments to the state unemployment insurance fund required by this chapter but does not include assessments under 39-51-404.

(8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(9) (a) "Domestic or household service" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or members of the employer's family, including but not limited to housecleaning and yard work.

(b) The term does not include employment beyond the scope of normal household or domestic duties, such as home health care or domiciliary care.

(10) "Employing unit" means any individual or organization, including the state government and any of its political subdivisions or instrumentalities or an Indian tribe or tribal unit, partnership, association, trust, estate, joint-stock company, insurance company, limited liability company or limited liability partnership that has filed with the secretary of state, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or the trustee's successor, or legal representative of a deceased person in whose employ one or more individuals perform or performed services within this state, except as provided under 39-51-204(1)(a) and ~~(1)(p)~~ *(1)(j)*. All individuals performing services within this state for any employing unit that maintains two or more separate establishments within this state are considered to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit is considered to be employed by the employing unit for the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by the agent or employee, provided that the employing unit has actual or constructive knowledge of the work.

(11) "Employment office" means a free public employment office or branch of an office operated by this state or maintained as a part of a state-controlled system of public employment offices or other free public employment offices operated and maintained by the United States government or its instrumentalities as the department may approve.

(12) "Fund" means the unemployment insurance fund established by this chapter to which all contributions and payments in lieu of contributions must be paid and from which all benefits provided under this chapter must be paid.

(13) "Gross misconduct" means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted or conduct that demonstrates a flagrant and

wanton disregard of and for the rights, title, or interest of a fellow employee or the employer.

(14) "Hospital" means an institution that has been licensed, certified, or approved by the state as a hospital.

(15) "Independent contractor" means an individual working under an independent contractor exemption certificate provided for in 39-71-417.

(16) "Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b(e).

(17) (a) "Institution of higher education", for the purposes of this part, means an educational institution that:

(i) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of a certificate;

(ii) is legally authorized in this state to provide a program of education beyond high school;

(iii) provides an educational program for which the institution awards a bachelor's or higher degree or provides a program that is acceptable for full credit toward a bachelor's or higher degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) is a public or other nonprofit institution.

(b) All universities in this state are institutions of higher education for purposes of this part.

(18) "Licensed and practicing health care provider" means a health care provider who is primarily responsible for the treatment of a person seeking unemployment insurance benefits and who is:

(a) licensed to practice in this state as:

(i) a physician under Title 37, chapter 3;

(ii) a dentist under Title 37, chapter 4;

(iii) an advanced practice registered nurse under Title 37, chapter 8, and recognized as a nurse practitioner or certified nurse specialist by the board of nursing, established in 2-15-1734;

(iv) a physical therapist under Title 37, chapter 11;

(v) a chiropractor under Title 37, chapter 12;

(vi) a clinical psychologist under Title 37, chapter 17; or

(vii) a physician assistant under Title 37, chapter 20; or

(b) with respect to a person seeking unemployment insurance benefits who resides outside of this state, a health care provider licensed or certified as a member of one of the professions listed in subsection (18)(a) in the jurisdiction where the person seeking the benefit lives.

(19) (a) "Misconduct" includes but is not limited to the following conduct by an employee:

(i) willful or wanton disregard of the rights, title, and interests of a fellow employee or the employer, including:

(A) insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions, processes, or instructions of the employer;

(B) repeated inexcusable tardiness following warnings by the employer;

(C) dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(D) false statements made as part of a job application process, including but not limited to deliberate falsification of the individual's criminal history, work record, or educational or licensure achievements;

(E) repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(F) deliberate acts that are illegal, provoke violence or violation of the law, or violate a collective bargaining agreement by which the employee is covered. However, an employee who engages in lawful union activity may not be disqualified because of misconduct under this subsection (19)(a)(i)(F).

(G) violations of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(H) actions by the claimant who, while acting within the scope of employment, commits violations of law that significantly affect the claimant's job performance or that significantly harm the employer's ability to do business;

(ii) deliberate violations or disregard of established employer standards or of standards of behavior that the employer has the right to expect of an employee;

(iii) carelessness or negligence that causes or is likely to cause serious bodily harm to the employer or a fellow employee; or

(iv) carelessness or negligence of a degree or that reoccurs to a degree to show an intentional or substantial disregard of the employer's interest.

(b) The term does not include:

(i) inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(ii) inadvertent or ordinary negligence in isolated instances; or

(iii) good faith errors in judgment or discretion.

(20) "No-additional-cost service" has the meaning provided in section 132 of the Internal Revenue Code, 26 U.S.C. 132.

(21) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada.

(22) "Taxes" means contributions and assessments required under this chapter but does not include penalties or interest for past-due or unpaid contributions or assessments.

(23) "Tribal unit" means an Indian tribe and any tribal subdivision or subsidiary or any business enterprise that is wholly owned by that tribe.

(24) "Unemployment insurance administration fund" means the unemployment insurance administration fund established by this chapter from which administrative expenses under this chapter must be paid.

(25) (a) "Wages", unless specifically exempted under subsection (25)(b), means all remuneration payable for personal services, including the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department. The term includes but is not limited to:

(i) commissions, bonuses, and remuneration paid for overtime work, holidays, vacations, and sickness periods;

(ii) severance or continuation pay, backpay, and any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan; and

(iii) tips or other gratuities received by the employee, to the extent that the tips or gratuities are documented by the employee to the employer for tax purposes.

(b) The term does not include:

(i) the amount of any payment made by the employer for employees, if the payment was made for:

(A) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(B) sickness or accident disability under a workers' compensation policy;

(C) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family; or

(D) death, including life insurance for the employee or the employee's immediate family;

(ii) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, or other expenses, as set forth in department rules;

(iii) a no-additional-cost service;

(iv) wage subsidies received pursuant to the alternative trade adjustment assistance for older workers program, 19 U.S.C. 2318; or

(v) the amount paid as a salary, draw, or profit distribution to a sole proprietor, a working member of a partnership, or a member of a limited liability company that is treated as a partnership or sole proprietorship pursuant to 39-51-207 or to a partner in a limited partnership that has filed with the secretary of state when the salary, draw, or profit distribution is paid directly by the enterprise in which the payee has an ownership interest.

(26) "Week" means a period of 7 consecutive calendar days ending at midnight on Saturday.

(27) "Weekly benefit amount" means the amount of benefits that an individual would be entitled to receive for 1 week of total unemployment."

Section 4. Section 39-51-204, MCA, is amended to read:

"39-51-204. Exclusions from definition of employment. (1) The term "employment" does not include:

(a) domestic or household service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-202(3). If an employer is otherwise subject to this chapter and has domestic or household service employment, all employees engaged in domestic or household service must be excluded from coverage under this chapter if the employer:

(i) does not meet the monetary payment test in any quarter or calendar year, as applicable, for the subject wages attributable to domestic or household service; and

(ii) keeps separate books and records to account for the employment of persons in domestic or household service.

(b) service performed by a dependent member of a sole proprietor for whom an exemption may be claimed under 26 U.S.C. 152 or service performed by a sole proprietor's spouse for whom an exemption based on marital status may be claimed by the sole proprietor under 26 U.S.C. 7703;

(c) service performed as a freelance correspondent or newspaper carrier if the person performing the service, or a parent or guardian of the person performing the service in the case of a minor, has acknowledged in writing that

the person performing the service and the service are not covered. As used in this subsection:

(i) "freelance correspondent" means a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) "newspaper carrier" means a person who provides a newspaper with the service of delivering newspapers singly or in bundles. The term does not include an employee of the paper who, incidentally to the employee's main duties, carries or delivers papers.

(d) services performed by qualified real estate agents, as defined in 26 U.S.C. 3508, or insurance salespeople paid solely by commission and without a guarantee of minimum earnings;

(e) service performed by a cosmetologist or barber who is licensed under Title 37, chapter 31, and:

(i) who has acknowledged in writing that the cosmetologist or barber is not covered by unemployment insurance and workers' compensation;

(ii) who contracts with a salon or shop, as defined in 37-31-101, and the contract must show that the cosmetologist or barber:

(A) is free from all control and direction of the owner in the contract;

(B) receives payment for service from individual clientele; and

(C) leases, rents, or furnishes all of the cosmetologist's or barber's own equipment, skills, or knowledge; and

(iii) whose contract gives rise to an action for breach of contract in the event of contract termination. The existence of a single license for the salon or shop may not be construed as a lack of freedom from control or direction under this subsection.

(f) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for the service is $50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. "Regularly employed" means that the service is performed during at least 24 days in the same quarter.

(g) service performed for the installation of floor coverings if the installer:

(i) bids or negotiates a contract price based upon work performed by the yard or by the job;

(ii) is paid upon completion of an agreed-upon portion of the job or after the job is completed;

(iii) may perform service for anyone without limitation;

(iv) may accept or reject any job;

(v) furnishes substantially all tools and equipment necessary to provide the service; and

(vi) works under a written contract that:

(A) gives rise to a breach of contract action if the installer or any other party fails to perform the contract obligations;

(B) states that the installer is not covered by unemployment insurance; and

(C) requires the installer to provide a current workers' compensation policy or to obtain an exemption from workers' compensation requirements;

(h) service performed as a direct seller as defined by 26 U.S.C. 3508;

(i) service performed by a petroleum land professional. As used in this subsection, "petroleum land professional" means a person who:

(i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in negotiating a business agreement for the exploration or development of minerals;

(ii) is paid for service that is directly related to the completion of a contracted specific task rather than on an hourly wage basis; and

(iii) performs all services as an independent contractor pursuant to a written contract.

~~(j) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;~~

~~(k) service performed by an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market;~~

~~(l) service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, any agency of a state or political subdivision of the state, or an Indian tribe by an individual receiving work relief or work training;~~

~~(m) service performed for a state prison or other state correctional or custodial institution by an inmate of that institution;~~

~~(n) service performed by an individual who is sentenced to perform court-ordered community service or similar work;~~

~~(o) service performed by elected public officials;~~

~~(p)~~*(j)* agricultural labor, except as provided in 39-51-202(2), (4), or (6). If an employer is otherwise subject to this chapter and has agricultural employment, all employees engaged in agricultural labor must be excluded from coverage under this chapter if the employer:

(i) in any quarter or calendar year, as applicable, does not meet either of the tests relating to the monetary amount or number of employees and days worked for the subject wages attributable to agricultural labor; and

(ii) keeps separate books and records to account for the employment of persons in agricultural labor.

~~(q)~~*(k)* service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law are not entitled to exemption under this subsection and are subject to this chapter the same as state banks, if the service is excluded from employment as defined in 5 U.S.C. 8501(1)(I) and section 3306(c)(6) of the Federal Unemployment Tax Act;

~~(r)~~*(l)* service in which unemployment insurance is payable under an unemployment insurance system established by an act of congress if the department enters into agreements with the proper agencies under an act of congress and those agreements become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under an act of congress or who have, after acquiring potential rights to unemployment insurance under the act of congress, acquired rights to benefits under this chapter;

~~(s)~~*(m)* service performed in the employ of a school or university if the service is performed by a student who is enrolled and is regularly attending classes at a school or university or by the spouse of a student if the spouse is advised, at the time that the spouse commences to perform the service, that the employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school or university and that the employment is not covered by any program of unemployment insurance;

~~(t)~~*(n)* service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at an institution that combines academic instruction with work experience if the service is an integral part of the program and the institution has certified that fact to the employer, except that this subsection ~~(1)(t)~~ *(1)(n)* does not apply to service performed in a program established for or on behalf of an employer or group of employers;

~~(u)~~*(o)* service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

~~(v)~~*(p)* service performed by an alien as identified in 8 U.S.C. 1101(a)(15)(F), (a)(15)(H)(ii)(a), (a)(15)(J), (a)(15)(M), or (a)(15)(Q);

~~(w)~~*(q)* service performed in a fishing rights-related activity of an Indian tribe by a member of the tribe for another member of that tribe or for a qualified Indian entity, as defined in 26 U.S.C. 7873;

~~(x)~~*(r)* service performed to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian;

~~(y)~~*(s)* service performed by an individual as an official, including a timer, referee, umpire, or judge, at an amateur athletic event; *or*

~~(z) services performed by an election judge appointed pursuant to 13-4-101 if the remuneration received for those services is less than $1,000 in the calendar year; or~~

~~(aa)~~*(t)* service performed by a volunteer participant in a program funded under the National and Community Service Act of 1990, 42 U.S.C. 12501, et seq., or the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950, et seq.

(2) For the purposes of 39-51-203(5) and (6), the term "employment" does not include:

(a) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;

(b) service performed by an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market;

(c) service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state or political subdivision of the state, or an Indian tribe by an individual receiving work relief or work training;

(d) service performed for a state prison or other state correctional or custodial institution by an inmate of that institution;

(e) service performed by an individual who is sentenced to perform court-ordered community service or similar work;

(f) service performed by elected public officials; or

(g) services performed by an election judge appointed pursuant to 13-4-101 if the remuneration received for those services is less than $1,000 in a calendar year.

~~(2)(a)~~*(3) (a)* Except as provided in subsection ~~(2)(b)~~ *(3)(b)*, an individual found to be an independent contractor by the department under the terms of 39-71-417 is considered an independent contractor for the purposes of this chapter. An independent contractor is not precluded from filing a claim for benefits and receiving a determination pursuant to 39-51-2402.

(b) An officer or a manager who is exempt under 39-71-401(2)(r)(iii) or (2)(r)(iv) and who obtains an independent contractor exemption pursuant to 39-71-417(1)(a)(ii) is not considered an independent contractor for the purposes of this chapter.

~~(3)~~*(4)* This section does not apply to a state or local governmental entity, an Indian tribe or tribal unit, or a nonprofit organization defined under section 501(c)(3) of the Internal Revenue Code unless the service is excluded from employment for purposes of the Federal Unemployment Tax Act."

Section 5. Section 39-51-1110, MCA, is amended to read:

"39-51-1110. Refunds to employers. (1) *(a)* If an employer claims an adjustment or the department determines through an examination of the employer's account that the employer has overpaid the amount due, the amount of the overpayment must be applied to future unemployment insurance obligations or must be refunded to the employer. The credit or refund may be allowed only if the claim is filed, or the determination is made, within a 5-year period after the date on which any taxes, penalty, or interest became due or within 1 year from the date the payment is made, whichever is later. The department shall credit or refund the amount to the employer, without interest.

(b) The department may not adjust wages that have been used for the purpose of establishing benefit eligibility after the statute of limitations provided in 39-51-2402 has expired, and a credit or refund may not be made with respect to those wages.

(2) If the department determines that an employer has paid taxes to this state under this chapter but the taxes should have been paid to another state under a similar act of the other state, a transfer of the taxes to the other state must be made upon discovery or, upon proof of payment that the other state has been fully paid, then a refund to the employer must be made upon application without limitation of time.

(3) If this chapter is not certified by the secretary of labor under 26 U.S.C. 3304 for any year, then refunds must be made of all taxes required under this chapter from employers for that year."

Section 6. Section 39-51-1206, MCA, is amended to read:

"39-51-1206. Department to provide for notification of employers of their classification and contribution rate. (1) The department shall by rule provide for the proper notification of employers of the classification and rate of contribution applicable to their accounts. Except as provided in subsection (2), the notification is final for all purposes unless the employer files a written request with the department for a redetermination or hearing on the

classification and rate of contribution within 30 days after ~~the mailing date of~~ *the department sends* the notice. The department may extend the 30-day period for good cause.

(2) The department may make changes in classification and rate of contribution upon an oral request for redetermination from the employer if the department finds that the department has made an error.

(3) The employer's request for a determination or redetermination pertains only to the experience factors or the major industrial classification that determines the classification and rate of contribution. The rate schedules provided by 39-51-1218 and the method of calculation provided by 39-51-1217 are not subject to appeal."

Section 7. Section 39-51-1212, MCA, is amended to read:

"39-51-1212. Experience rating for governmental entities. (1) The rates of governmental entities who have accumulated experience rating credits must be adjusted annually as follows with each governmental entity assigned a rate based upon:

(a) its benefit cost experience, to be arrived at by dividing the total sum of benefits charged to the employer's account for all past periods that are completed transactions by December 31 by total wages from date of subjectivity of the employing unit through December 31; and

(b) the benefit cost for all past years of governmental entities electing to pay contributions compared with total payrolls reported for all past years by these governmental entities used as a median, with the rates fixed using the median so that the rates will, when applied to the total annual payroll for subject governmental entities, yield total paid contributions equaling approximately the total benefit costs.

(2) New governmental entities electing to pay contributions must be assigned the median rate for the year in which they become subject.

(3) The minimum rate may not be less than 0.06% and the maximum rate may not be greater than 1.5%. The rates are to be graduated at one-tenth intervals.

(4) If benefit charges exceed contributions paid in the last ~~2~~ completed state fiscal ~~years~~ *year*, governmental entities' rates must be adjusted by increasing all rates to the next higher schedule.

(5) The computed rate is effective July 1 of each year.

(6) Governmental entities must be charged for their share of the total benefits paid to a claimant if the governmental entity contributed wages during the claimant's base period. The benefit charged must be based on the percentage of wages paid by the governmental entity as compared to the total wages paid by all employers in the claimant's base period.

(7) Subject to the provisions of 39-51-605, the department may relieve benefit charges paid by a governmental employer with respect to benefits paid to an individual if the governmental employer continues to provide employment to the individual without a reduction in hours or wages."

Section 8. Section 39-51-1219, MCA, is amended to read:

"39-51-1219. Procedures for substitution, merger, transfer, or acquisition of employer account by successor employing unit — prohibitions and penalties — definitions. (1) (a) If an employer in any manner succeeds to or acquires all or a portion of the trade or business of another employer or transfers all or a portion of the employer's trade or business to another employer and both employers are under substantially common

ownership, management, or control at the time of the succession, acquisition, or transfer, the experience rating record attributable to the predecessor employer must be transferred to and combined with the experience rating record of the successor employer.

(b) In the case of a partial transfer of a trade or business, the portion of the experience rating record transferred from the predecessor employer to the successor employer must be based on the portion of the trade or business transferred. The portion must be determined in the same ratio as the payroll transferred to the successor employer in the 4 reported calendar quarters immediately preceding the date of the transfer.

(c) Whenever a transfer involves only a portion of the experience rating record and the predecessor employer or successor employer fails to supply the required payroll information to the department within 10 days after notification, the transfer must be based on estimates of the applicable payrolls.

(d) ~~Any~~ *A* successor employer who was not an employer on the date of acquisition becomes a covered employer as of that date.

(e) A successor employer must be notified by the department in writing of the transfer of the experience rating record, and unless the successor employer appeals the transfer within 30 days of the date on which the notice was ~~mailed~~ *sent*, the successor employer's right to appeal the transfer is waived.

(2) (a) If an employer transfers, succeeds to, or acquires all or a portion of the trade or business of a covered employer and the employers are not under substantially common ownership, management, or control, the predecessor employer and the successor employer have the option to transfer the applicable portion of the experience rating record from the predecessor employer to the successor employer if that portion of the trade or business is continued by the successor employer.

(b) In order to make the transfer, a joint application for the transfer of the experience rating record must be made by the predecessor employer and the successor employer within 90 days of the acquisition and approval by the department.

(c) In the case of a complete transfer of the trade or business, all of the experience rating record of the predecessor employer is transferred to the successor employer.

(d) In the case of a partial transfer of the trade or business, the portion of the experience rating record transferred from the predecessor employer to the successor employer must be based on the portion of the trade or business transferred. This portion must be determined in the same ratio as the payroll transferred to the successor employer in the 4 reported calendar quarters immediately preceding the date of transfer.

(e) A successor employer who was not an employer on the date of acquisition becomes a covered employer as of that date.

(f) The 90-day period for filing the joint application may be extended at the discretion of the department.

(3) (a) If the successor employer was a covered employer prior to the date of the acquisition of all or a portion of the predecessor employer's trade or business and if:

(i) the employers are not under substantially common ownership, management, or control at the time of acquisition, the successor employer's rate of contribution, effective the first day of the calendar year immediately following

the date of acquisition, is based on the combined experience of the predecessor employer and successor employer; or

(ii) the employers were under substantially common ownership, management, or control at the time of acquisition, the successor employer's experience rate must be combined with the predecessor employer's experience rate and must be recalculated and become effective at the beginning of the calendar quarter in which the acquisition occurred.

(b) If the successor employer was not a covered employer prior to the date of the acquisition of all or a portion of the predecessor employer's trade or business and the employers are not under substantially common ownership, management, or control, upon joint application by the employers, the successor employer's rate is the rate assigned to the predecessor employer as of the date of acquisition. If there was more than one predecessor employer, the successor employer's rate must be computed based on the combined experience of the predecessor employers and becomes effective immediately after the date of acquisition and remains in effect for the balance of the rate year.

(4) The transfer of all or part of an employer's workforce to another employer must be considered a transfer of a trade or business if, as a result of the workforce transfer, the transferring employer is not any longer performing the trade or business with respect to the transferred workforce and the trade or business is performed by the employer to which the workforce is transferred.

(5) (a) The experience rating record of a predecessor trade or business may not be transferred to a person acquiring the trade or business if:

(i) the person is not otherwise an employer at the time of the acquisition; and

(ii) the department finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions.

(b) A person subject to the provisions of subsection (5)(a) must be assigned the applicable new employer rate pursuant to 39-51-1217.

(6) Factors that the department may consider in determining if a person acquired a trade or business solely or primarily for the purpose of obtaining a lower rate of contributions include but are not limited to:

(a) the cost of acquisition;

(b) whether the person continued the trade or business operation;

(c) the length of time that the trade or business operation was continued after acquisition; and

(d) whether a substantial number of new employees were to perform duties unrelated to the trade or business operations conducted prior to the acquisition.

(7) A person who knowingly violates, attempts to violate, or provides advice on violating the provisions of this section is subject to the following penalties:

(a) If the person is an employer, the employer shall be assessed a penalty equal to 6% of the employer's average annual taxable wages used in computing the employer's most recent year's experience rating record. The penalty must be deposited in the penalty and interest account established in 39-51-1301(4).

(b) If the person is not an employer, the person is subject to a civil penalty of not more than $5,000. The penalty must be deposited in the penalty and interest account established in 39-51-1301(4).

(c) In addition to the penalties provided for in subsections (7)(a) and (7)(b), a person who violates a provision of this section:

(i) is subject to any other penalties prescribed by this chapter;

(ii) may be subject to a criminal penalty pursuant to 39-51-3204; and

(iii) may be charged with any other applicable criminal violations provided by law.

(8) For the purposes of this section, the following definitions apply:

(a) "Knowingly" means having actual knowledge of, acting with deliberate ignorance of, or reckless disregard for the prohibitions established in this section.

(b) "Person" includes an individual, trust, estate, partnership, association, company, or corporation.

(c) "Trade or business" includes an employer's workforce.

(9) The department shall establish procedures to identify the transfer or acquisition of a trade or business for the purposes of this section.

(10) This section must be interpreted and applied in a manner that meets the minimum requirements contained in any guidance or regulations issued by the United States department of labor."

Section 9. Section 39-51-2402, MCA, is amended to read:

"39-51-2402. Determination — redetermination. (1) The department shall promptly examine a claim for benefits, and on the basis of the department's findings of fact, the department shall determine whether or not the claim is valid. If the claim is valid, the department shall determine the week the benefits commence, the weekly benefit amount payable, and the maximum benefit amount. The department may refer the claim or any question involved in the claim to an appeals referee who shall make the decision on the claim in accordance with the procedure prescribed in 39-51-2403. The department shall promptly notify the claimant and any other interested party of its determination and the reasons for reaching the determination.

(2) The department may for good cause reconsider its determination and shall promptly notify the claimant and other interested parties of the redetermination and the reasons for the redetermination.

(3) A determination or redetermination is final unless an interested party ~~entitled to notice of the decision~~ applies for reconsideration of the determination or appeals ~~the decision~~ within 10 days after the ~~notification was mailed~~ *determination or redetermination was sent* to the interested party's ~~last-known~~ address *of record*. The 10-day period may be extended for good cause.

(4) Except as provided in subsection (5), a redetermination of any issue of an original determination may not be made after 2 years from the date of the original determination of that issue.

(5) A redetermination of any issue of an original determination may be made within 3 years from the date of the original determination of that issue if the original determination was based on a false claim, misrepresentation, or failure to disclose a material fact by the claimant or the employer."

Section 10. Section 39-51-2403, MCA, is amended to read:

"39-51-2403. Hearing — decision of appeals referee. Upon appeal of a determination or redetermination under 39-51-2402, an appeals referee shall hold a hearing, which may be conducted by telephone or by videoconference. After the hearing, the appeals referee shall promptly make findings and conclusions and affirm, modify, or reverse the department's determination or redetermination. Each interested party must be promptly furnished a copy of the decision and the supporting findings and conclusions. This decision is final unless further review is initiated pursuant to 39-51-2404 within 10 days after ~~notification was mailed~~ *the decision was sent* to the interested party's

~~last-known~~ address *of record*. The 10-day period may be extended for good cause."

Section 11. Section 39-51-2404, MCA, is amended to read:

"39-51-2404. Appeal to board procedure. An interested party who is dissatisfied with a decision of an appeals referee may appeal to the board. The department shall promptly transmit all records pertinent to the appeal to the board. The appeal hearing may be conducted by telephone or by videoconference. When a decision is rendered by the board and copies of the decision are mailed to all interested parties, including the department, that decision is final unless an interested party requests a rehearing or initiates judicial review by filing a petition in district court within 30 days of the date of ~~mailing of~~ *sending* the board's decision to the party's ~~last-known~~ address *of record*."

Section 12. Section 39-51-2410, MCA, is amended to read:

"39-51-2410. Finality of board's decision — judicial review. (1) ~~Any~~ *A* decision of the board, in the absence of an appeal ~~therefrom as herein~~ *as* provided *by this section,* ~~shall become~~ *becomes* final 30 days after the ~~date of notification or mailing thereof~~ *decision was sent to the parties at their respective addresses of record.* ~~and judicial~~ *Judicial* review ~~shall be~~ *is* permitted only after any party claiming to be aggrieved has exhausted all remedies before the board. The department is ~~deemed~~ *considered* to be a party to any judicial action involving ~~any such~~ *a* decision and may be represented in ~~any such~~ *that* action by an attorney employed by the department or, at the department's request, by the attorney general.

(2) Within 30 days after ~~the date of notification or mailing of~~ the decision of the board *was sent to the parties at their respective addresses of record*, any party aggrieved ~~thereby~~ *by the decision* may secure judicial review ~~thereof~~ by commencing an action in the district court of the county in which ~~said~~ *the* party resides and in which action any other party to the proceeding before the board ~~shall~~ *must* be made a defendant. In such *an* action a petition, which need not be verified but ~~which shall~~ *must* state the grounds upon which a review is sought, ~~shall~~ *must* be served upon the commissioner of labor and industry and all interested parties in the manner provided in the Montana Rules of Civil Procedure.

(3) The department shall certify and file with ~~said~~ *the* court all documents and papers and a record of all testimony taken in the matter, together with the board's findings of fact and decision. The board may also in its discretion certify to ~~such~~ *the* court questions of law involved in any decision by ~~it~~ *the board*.

(4) Whenever the department seeks review of a decision of the board, all interested parties ~~shall~~ *must* be served with a copy of its petition together with all documents filed with the court.

(5) In any judicial proceeding under 39-51-2406 through 39-51-2410, the findings of the board as to the facts, if supported by evidence and in the absence of fraud, ~~shall be~~ *are* conclusive and the jurisdiction of ~~said~~ *the* court ~~shall be~~ *is* confined to questions of law. ~~Such~~ *The* action and the questions so certified ~~shall~~ *must* be heard in a summary manner and ~~shall~~ *must* be given precedence over all other civil cases ~~except cases arising under the workers' compensation law of this state~~.

(6) An appeal may be taken from the decision of the district court to the supreme court of Montana in the same manner, but not inconsistent with the provisions of this chapter, as is provided in civil cases. It ~~shall not be~~ *is not*

necessary in any judicial proceeding under this section to enter exceptions to the rulings of the board and ~~no~~ *a* bond ~~shall~~ *may not* be required for entering ~~such~~ *an* appeal. Upon the final determination of ~~such~~ *the* judicial proceeding, the department shall enter an order in accordance with ~~such~~ *the* determination."

Section 13. Effective date. [This act] is effective July 1, 2015.

Approved March 27, 2015

CHAPTER NO. 133

[SB 124]

AN ACT GENERALLY REVISING PUBLIC PARTICIPATION LAWS; REQUIRING THE BOARD OF INVESTMENTS, THE PUBLIC EMPLOYEES' RETIREMENT BOARD, THE TEACHERS' RETIREMENT BOARD, THE BOARD OF PUBLIC EDUCATION, AND THE BOARD OF REGENTS OF HIGHER EDUCATION TO RECORD THEIR PUBLIC MEETINGS IN AUDIO OR VIDEO FORMATS; REQUIRING PUBLICATION OF THE AUDIO OR VIDEO RECORDINGS ON THE INTERNET OR VIA BROADCAST TELEVISION WITHIN 1 BUSINESS DAY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Recording of meetings for certain boards. (1) Except as provided in 2-3-203, the following boards shall record their public meetings in a video or audio format:

(a) the board of investments provided for in 2-15-1808;

(b) the public employees' retirement board provided for in 2-15-1009;

(c) the teachers' retirement board provided for in 2-15-1010;

(d) the board of public education provided for in Article X, section 9, of the Montana constitution; and

(e) the board of regents of higher education provided for in Article X, section 9, of the Montana constitution.

(2) All good faith efforts to record meetings in a video format must be made, but if a board is unable to record a meeting in a video format, it must record the meeting in an audio format.

(3) (a) The boards listed in subsection (1) must make the video or audio recordings of meetings under subsection (1) publicly available within 1 business day after the meeting through broadcast on the state government broadcasting service as provided in 5-11-1111 or through publication of streaming video or audio content on the respective board's website.

(b) The department of administration may develop a memorandum of understanding with the legislative services division for broadcasting executive branch content on the state government broadcasting service or live-streaming audio or video executive branch content over the internet.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 3, part 2, and the provisions of Title 2, chapter 3, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved March 27, 2015

CHAPTER NO. 134

[SB 131]

AN ACT REVISING LAWS REGARDING CONCEALED WEAPONS PERMIT RENEWALS BY PROVIDING THAT FINGERPRINTING DOES NOT HAVE TO BE REPEATED WHEN PERMITS ARE RENEWED AND ESTABLISHING A TIME PERIOD FOR THE SHERIFF TO DETERMINE WHETHER A RENEWAL PERMIT WILL BE GRANTED; AND AMENDING SECTIONS 45-8-322 AND 45-8-323, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-8-322, MCA, is amended to read:

"45-8-322. Application, renewal, permit, and fees. (1) The application form must be readily available at the sheriff's office and must read as follows:

CONCEALED WEAPON PERMIT APPLICATION

To be completed by each person making application:

RESIDENT OF MONTANA AT LEAST 6 MONTHS	( ) Yes	( ) No
CITIZEN OF THE UNITED STATES	( ) Yes	( ) No
18 YEARS OF AGE OR OLDER	( ) Yes	( ) No

PLEASE TYPE OR PRINT

Full name: .....
Last First Middle

Alias/Maiden/Nickname: .....

Address: Home: ..... Zip .....

Employer: ..... Zip .....

Phone: ...../ ...../ .....
Home Employer Message

Place of birth: ..... Date of birth: .....

Driver's license #: ..... Issuing state: .....

Social Security #: .....

Sex ..... Ht. ..... Wt. ..... Eyes ..... Hair .....

LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE LAST 5 YEARS:

	Employer or business name	Address	Dates of employment
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....
6.	.....	.....	.....

LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 5 YEARS:

	City	State	Dates of residence
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....
6.	.....	.....	.....

MILITARY SERVICE, BRANCH ..... FROM ..... TO .....

TYPE OF DISCHARGE ..... RANK UPON DISCHARGE .....

HAVE YOU EVER BEEN ARRESTED FOR OR CONVICTED OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING?

( ) YES ( ) NO

IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic violations) (Attach additional sheet if necessary):

	City	State	Charge	Date
1.	.....	.....	.....	.....
2.	.....	.....	.....	.....
3.	.....	.....	.....	.....
4.	.....	.....	.....	.....
5.	.....	.....	.....	.....

LIST THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL CHARACTER AND PEACEABLE DISPOSITION (DO NOT include relatives or present/past employers):

	Name	Address	Phone
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....

PLEASE EXPLAIN YOUR REASONS FOR REQUESTING THIS PERMIT (Attach additional sheet if necessary):

.....
.....
.....

I, the undersigned applicant, swear that the foregoing information is true and correct to the best of my knowledge and belief and is given with the full knowledge that any misstatement may be sufficient cause for denial or revocation of a permit to carry a concealed weapon. I authorize any person having information concerning me that relates to the information requested by this application and the requirements for a concealed weapon permit, either public record or otherwise, to furnish it to the sheriff to whom this application is made.

.....

Signature

.....

Date of application

This application must be signed in the presence of the sheriff or a designee.

(2) The application must be in triplicate. The applicant must be given the original at the time the completed application is filed with the sheriff, the sheriff shall keep a copy for at least 4 years, and a copy must, within 7 days of the sheriff's receipt of the application, be mailed to the chief of police if the applicant resides in a city or town with a police force.

(3) The fee for issuance of a permit is $50. The permit must be renewed for additional 4-year periods upon payment of a $25 fee for each renewal and upon request for renewal made within 90 days before expiration of the permit. The permit and each renewal must be in triplicate, in a form prescribed by the department of justice, and must, at a minimum, include the name, address, physical description, signature, driver's license number, state identification card number, or tribal identification card number, and a picture of the permittee. A person in the United States armed forces satisfies the requirement of submitting a picture if the person submits pictures of the front of the person's military identification card and the person's Montana driver's license. The permit must state that federal and state laws on possession of firearms and other weapons differ and that a person who violates the federal law may be prosecuted in federal court and the Montana permit will not be a defense. The permittee must be given the original, and the sheriff shall keep a copy and send a copy to the department of justice, which shall keep a central repository record of all permits. Replacement of a lost permit must be treated as a renewal under this subsection.

(4) The sheriff shall conduct a background check of an applicant to determine whether the applicant is eligible for a permit under 45-8-321, may require an applicant to submit the applicant's fingerprints, and may charge the applicant $5 for fingerprinting. *A renewal does not require repeat fingerprinting.*

(5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to implement 45-8-321 through 45-8-325.

(6) A state or local government law enforcement agency or other agency or any of its officers or employees may not request a permittee to voluntarily submit information in addition to that required on an application and permit.

(7) All of the information on the application is confidential, and the sheriff shall treat the confidential information on the application as confidential criminal justice information pursuant to Title 44, chapter 5."

Section 2. Section 45-8-323, MCA, is amended to read:

"45-8-323. Denial of renewal — revocation of permit. A permit to carry a concealed weapon may be revoked or its renewal denied by the sheriff of the county in which the permittee resides if circumstances arise that would require the sheriff to refuse to grant the permittee an original license. *A decision to deny an applicant a renewal must be made within 60 days after the filing of an application.*"

Approved March 27, 2015

CHAPTER NO. 135

[SB 142]

AN ACT AUTHORIZING ACCESS TO AND THE USE OF EXPERIMENTAL TREATMENTS FOR A TERMINAL ILLNESS; ESTABLISHING CONDITIONS FOR THE USE OF EXPERIMENTAL TREATMENTS; PROHIBITING SANCTIONS OF HEALTH CARE PROVIDERS; CLARIFYING THE DUTIES OF HEALTH INSURERS REGARDING EXPERIMENTAL TREATMENTS; PROHIBITING CERTAIN ACTIONS BY STATE OFFICIALS; PROVIDING IMMUNITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 10] may be cited as the "Right to Try Act".

Section 2. Definitions. As used in [sections 1 through 10], the following definitions apply:

(1) "Eligible patient" means an individual who meets the requirements of [section 4];

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) "Health care provider" means any of the following individuals licensed pursuant to Title 37:

(a) a physician;

(b) an advanced practice registered nurse authorized by the board of nursing to prescribe medicine; and

(c) a physician assistant whose duties and delegation agreement allows the physician assistant to undertake the activities allowed under [sections 1 through 10].

(4) "Investigational drug, biological product, or device" means a drug, biological product, or device that:

(a) has successfully completed phase 1 of a clinical trial but has not yet been approved for general use by the United States food and drug administration; and

(b) remains under investigation in a United States food and drug administration-approved clinical trial.

(5) "Terminal illness" means a progressive disease or medical or surgical condition that:

(a) entails significant functional impairment;

(b) is not considered by a treating health care provider to be reversible even with administration of a treatment currently approved by the United States food and drug administration; and

(c) without life-sustaining procedures, will result in death.

(6) "Written informed consent" means a written document that meets the requirements of [section 5].

Section 3. Availability of experimental drugs. (1) A manufacturer of an investigational drug, biological product, or device may make the drug, product, or device available to an eligible patient who has requested the drug, product, or device pursuant to [sections 1 through 10].

(2) The manufacturer may:

(a) provide an investigational drug, biological product, or device to an eligible patient without receiving compensation; or

(b) require an eligible patient to pay the costs of or the costs associated with the manufacture of the investigational drug, biological product, or device.

(3) A manufacturer is not required to make an investigational drug, biological product, or device available to an eligible patient.

Section 4. Eligible patient — requirements. A patient is eligible for treatment with an investigational drug, biological product, or device if the patient has:

(1) a terminal illness that is attested to by the patient's treating health care provider;

(2) considered all other treatment options currently approved by the United States food and drug administration;

(3) received a recommendation from the patient's treating health care provider for an investigational drug, biological product, or device;

(4) given written informed consent for the use of the investigational drug, biological product, or device; and

(5) documentation from the treating health care provider that the patient meets the requirements of this section.

Section 5. Written informed consent required. (1) A patient or a patient's legal guardian must provide written informed consent for treatment with an investigational drug, biological product, or device.

(2) At a minimum, the written informed consent must include:

(a) an explanation of the currently approved products and treatments for the disease or condition from which the patient suffers;

(b) an attestation that the patient concurs with the treating health care provider in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;

(c) clear identification of the specific investigational drug, biological product, or device that the patient is seeking to use;

(d) a description of the potentially best and worst outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome;

(e) a statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device unless they are specifically required to do so by law or contract;

(f) a statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if the treatment ends and the patient meets hospice eligibility requirements; and

(g) a statement that the patient understands that the patient is liable for all expenses related to the use of the investigational drug, biological product, or device and that the liability for expenses extends to the patient's estate, unless a contract between the patient and the manufacturer of the drug, biological product, or device states otherwise.

(3) The description of potential outcomes required under subsection (2)(d) must:

(a) include the possibility that new, unanticipated, different, or worse symptoms might result and that the proposed treatment could hasten death; and

(b) be based on the treating health care provider's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.

(4) The written informed consent must be:

(a) signed by:

(i) the patient;

(ii) a parent or legal guardian, if the patient is a minor; or

(iii) a legal guardian, if a guardian has been appointed pursuant to Title 72, chapter 5; and

(b) attested to by the patient's treating health care provider and a witness.

Section 6. Effect on insurance coverage and health care services. (1) [Sections 1 through 10] do not:

(a) expand the coverage required of an insurer under Title 33 or of the state or a local government under Title 2 or Title 53;

(b) affect the requirements for insurance coverage of routine patient costs for patients involved in approved cancer clinical trials pursuant to 2-18-704, 33-22-101, 33-22-153, 33-31-111, 33-35-306, 53-4-1005, or 53-6-101;

(c) require a health plan, third-party administrator, or governmental agency to pay costs associated with the use, care, or treatment of an eligible patient with an investigational drug, biological product, or device; or

(d) require a health care facility to provide new or additional services.

(2) A health plan, third-party administrator, or governmental agency may provide coverage for the cost of an investigational drug, biological product, or device or the cost of services related to the use of an investigational drug, biological product, or device under [sections 1 through 10].

(3) A health care facility may approve the use of an investigational drug, biological product, or device in the health care facility.

Section 7. Heirs not liable for payments. If an eligible patient dies while being treated with an investigational drug, biological product, or device, the patient's heirs are not liable for any outstanding debt related to the treatment or to a lack of insurance as a result of the treatment.

Section 8. Disciplinary action prohibited. (1) A licensing board may not revoke, fail to renew, suspend, or take any action against a license issued under Title 37 to a health care provider based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.

(2) The department of public health and human services may not take action against a health care provider's medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product, or device.

Section 9. State action prohibited. (1) An official, employee, or agent of the state of Montana may not block or attempt to block an eligible patient's access to an investigational drug, biological product, or device.

(2) Counseling, advice, or a recommendation consistent with medical standards of care from a licensed health care provider is not a violation of this section.

Section 10. Immunity from suit. A manufacturer of an investigational drug, biological product, or device, a pharmacist, a health care facility, a health care provider, or a person or entity involved in the care of an eligible patient using an investigational drug, biological product, or device is immune from suit for any harm done to the eligible patient resulting from the investigational drug, biological product, or device if the manufacturer, pharmacist, health care facility, health care provider, or other person or entity is complying in good faith with the terms of this act and has exercised reasonable care.

Section 11. Codification instruction. [Sections 1 through 10] are intended to be codified as an integral part of Title 50, chapter 9, and the provisions of Title 50, chapter 9, apply to [sections 1 through 10].

Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Two-thirds vote required. Because [section 10] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 14. Effective date. [This act] is effective on passage and approval.

Approved March 27, 2015

CHAPTER NO. 136

[SB 152]

AN ACT EXTENDING LAWS, DEFINITIONS, RULEMAKING AUTHORITY, AND OTHER PROVISIONS RELATED TO OUTFITTER'S ASSISTANTS; AMENDING SECTION 11, CHAPTER 241, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 11, Chapter 241, Laws of 2013, is amended to read:

"Section 11. Termination. [This act] terminates ~~August 31, 2015~~ *December 31, 2017*."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 27, 2015

CHAPTER NO. 137

[HB 12]

AN ACT PROVIDING FOR A DECREE OF DISSOLUTION WITHOUT A HEARING WHEN THE DISSOLUTION IS UNCONTESTED; AMENDING SECTION 40-4-108, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-108, MCA, is amended to read:

"40-4-108. Decree. (1) A decree of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree

that dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal.

(2) No earlier than 6 months after entry of a decree of legal separation, the court on motion of either party shall convert the decree to a decree of dissolution of marriage.

(3) The clerk of the court shall give notice of the entry of a decree of dissolution:

(a) if the marriage is registered in this state, to the clerk of the district court of the county where the marriage is registered, who shall enter the fact of dissolution in the book in which the marriage license and certificate are recorded; or

(b) if the marriage is registered in another jurisdiction, to the appropriate official of that jurisdiction, with the request that the official enter the fact of dissolution in the appropriate record.

(4) (a) The parties to a dissolution or legal separation may request entry of a decree of dissolution or legal separation without a hearing by filing joint or individual affidavits with the court.

(b) The court may enter a decree of dissolution or legal separation without a hearing when:

(i) the affidavit sets forth a prima facie case that the parties have reached a voluntary resolution of all matters related to the dissolution or legal separation and consent to entry of the decree by affidavit in lieu of a hearing; and

(ii) it appears to the court that:

(A) the jurisdictional requirements of 40-4-104 exist;

(B) the parties have complied with the financial disclosure provisions of 40-4-252 through 40-4-254 or 40-4-257;

(C) a separation agreement, as provided for in 40-4-201(1), containing provisions for disposition of any property owned by either or both parties, distribution of any debts owed by either or both parties, maintenance of either party, and support, parenting, and parental contact with any minor children of the parties has been filed with the court prior to or concurrently with the affidavit;

(D) the affidavit includes a proposed decree; and

(E) the party filing the affidavit waives the right to appear personally in court to present testimony as to any matters and requests the court to enter a decree without a hearing.

(c) Regardless of compliance with the affidavit requirements of subsection (4)(b), the court may require a hearing for any reason the court considers necessary.

(d) If all parties in the action have submitted affidavits for dissolution of marriage or legal separation without a hearing and the court determines that entry of a decree is appropriate, the court may enter the decree without a hearing.

~~(4)~~*(5)* Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order the wife's maiden name or a former name restored."

Section 2. Applicability. [This act] applies to dissolution cases filed on or after October 1, 2015.

Approved March 30, 2015

CHAPTER NO. 138

[HB 54]

AN ACT REPLACING THE TITLE USED TO IDENTIFY THE UNITED STATES OFFICIAL RESPONSIBLE FOR CERTAIN ACTIONS UNDER THE SOCIAL SECURITY ACT; PROVIDING A DEFINITION OF "COMMISSIONER OF SOCIAL SECURITY"; AND AMENDING SECTIONS 19-1-102, 19-1-304, 19-1-401, 19-1-402, AND 19-1-823, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-1-102, MCA, is amended to read:

"19-1-102. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Commissioner of social security" means the commissioner of the United States social security administration or an individual to whom the commissioner of social security has delegated any function under the Social Security Act with respect to coverage under that act of employees of states and their political subdivisions, except:

(a) with respect to an action taken prior to April 11, 1953, the term means the federal security administrator or an individual to whom the administrator delegated any function; and

(b) with respect to an action taken on or after April 11, 1953, through March 30, 1995, the term means the secretary of the United States department of health and human services or an individual to whom the secretary delegated any function.

~~(1)~~*(2)* "Employee" means an elective or appointive officer or employee of the state or a political subdivision of the state.

~~(2)~~*(3)* "Employee tax" means the tax imposed by section 3101 of the Internal Revenue Code, 26 U.S.C. 3101, as amended.

~~(3)~~*(4)* (a) "Employment" means any service performed *for the employer* by an employee ~~in the employ~~ of the state or any political subdivision of the state ~~for the employer~~, except:

(i) service that in the absence of an agreement entered into under this chapter would constitute employment as defined in the Social Security Act; or

(ii) service that under the Social Security Act may not be included in an agreement between the state and the ~~secretary of health and human services~~ *commissioner of social security* entered into under this chapter.

(b) Service performed by civilian employees of national guard units is specifically included within the term ~~employment~~ *"employment"*.

(c) Service that under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with section 218(d)(3) of that act is included in the term ~~employment~~ *"employment"* if and when the governor issues, with respect to the service, a certificate to the ~~secretary of health and human services~~ *commissioner of social security* pursuant to 19-1-304.

~~(4)~~*(5)* "Federal Insurance Contributions Act" means subchapters A and B of chapter 21 of the Internal Revenue Code.

~~(5)~~*(6)* "Political subdivision" means an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations, but only if the instrumentality is a legally constituted entity that is legally separate and distinct from the state

or subdivision and only if its employees are not by virtue of their relation to the entity employees of the state or subdivision. The term includes special districts or authorities created by the legislature or local governments, including but not limited to school districts and housing authorities.

~~(6) "Secretary of health and human services" means the secretary of the United States department of health and human services. The term includes any individual to whom the secretary of health and human services has delegated any functions under the Social Security Act with respect to coverage under that act of employees of states and their political subdivisions and, with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom the administrator had delegated any function.~~

(7) "Social Security Act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", including regulations and requirements issued pursuant to the act, as the act has been and may be amended.

(8) "State agency" means the department of administration provided for in 2-15-1001.

(9) "Wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that the term does not include that part of remuneration that, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of that act."

Section 2. Section 19-1-304, MCA, is amended to read:

"19-1-304. Certification by governor. Upon receiving satisfactory evidence that with respect to a referendum the conditions specified in section 218(d)(3) of the Social Security Act (42 U.S.C. 418(d)(3)) have been met, the governor shall certify the results of the referendum to the ~~secretary of health and human services~~ *commissioner of social security*."

Section 3. Section 19-1-401, MCA, is amended to read:

"19-1-401. Authority for federal-state agreement. The state agency, with the approval of the governor, may enter, on behalf of the state, into an agreement with the ~~secretary of health and human services~~ *commissioner of social security*, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision of the state with respect to services specified in the agreement that constitute "employment", as defined in 19-1-102."

Section 4. Section 19-1-402, MCA, is amended to read:

"19-1-402. Contents of federal-state agreement. The agreement authorized by 19-1-401 may contain provisions relating to coverage, benefits, effective date, and modification of the agreement, administration, and other appropriate provisions as the state agency and ~~secretary of health and human services~~ *the commissioner of social security* agree upon. Except as otherwise required or permitted by the Social Security Act regarding the services to be covered, the agreement must provide that:

(1) benefits will be provided for employees whose services are covered by the agreement and for their dependents and survivors on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) the agreement must be effective with respect to services in employment covered by the agreement performed after a date specified in the agreement, but may not be effective with respect to services performed prior to the first day of the calendar year in which the agreement is entered into or in which the modification of the agreement making it applicable to services is entered into, except that the effective date may be made retroactive to the extent permitted by section 218(e) of the Social Security Act, 42 U.S.C. 418(e);

(3) all services that constitute employment and are performed by employees of the state must be covered by the agreement; and

(4) all services that constitute employment, are performed by employees of a political subdivision of the state, and are covered by a plan that is in conformity with the terms of the agreement and that has been approved by the state agency under Title 19, chapter 1, part 5*,* must be covered by the agreement."

Section 5. Section 19-1-823, MCA, is amended to read:

"19-1-823. Certification by governor. If the majority of votes cast in the referendum ~~indicates~~ *indicate* that the majority of voters desire it, the governor shall certify to the ~~secretary of health and human services~~ *commissioner of social security* that the conditions set forth in section 218 of the Social Security Act (42 U.S.C. 418) have been complied with in respect to the retirement system voting in the referendum."

Approved March 30, 2015

CHAPTER NO. 139

[HB 95]

AN ACT GENERALLY REVISING THE PUBLIC ADJUSTER LAWS; CLARIFYING THAT LICENSURE LAWS APPLY TO PUBLIC ADJUSTERS; OUTLINING CONTRACT REQUIREMENTS FOR PUBLIC ADJUSTERS; CREATING STANDARDS OF CONDUCT FOR PUBLIC ADJUSTERS; APPLYING CONTINUING EDUCATION REQUIREMENTS TO PUBLIC ADJUSTERS; PROVIDING PENALTIES; AMENDING SECTIONS 33-1-402, 33-2-708, 33-17-102, 33-17-301, 33-17-1001, 33-17-1002, 33-17-1004, 33-17-1202, 33-17-1203, AND 33-17-1205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-1-402, MCA, is amended to read:

"33-1-402. Examination of insurance producers, managers, and promoters. For the purpose of ascertaining compliance with this code, the commissioner may, as often as the commissioner considers advisable, examine the accounts, records, documents, and transactions pertaining to or affecting its insurance affairs or proposed insurance affairs of:

(1) an insurance producer, surplus lines insurance producer, general insurance producer, ~~or~~ adjuster*, or public adjuster*;

(2) a person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer;

(3) a person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the purpose of controlling the management of the domestic insurer, as voting trustee or otherwise;

(4) a person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer or insurance holding corporation or corporation to finance a domestic insurer or the production of its business."

Section 2. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of $1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) biennial renewal of license, $50;

(C) lapsed license reinstatement fee, $100;

(ii) resident insurance producer's license lapsed license reinstatement fee, $100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) quarterly filing fee, $25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), $50;

(ix) navigator certification:

(A) application for original certification, including issuance of certificate if issued, $100;

(B) biennial renewal of certification, $50;

(C) lapsed certification reinstatement fee, $100;

(x) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, *an insurance public adjuster,* or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of $75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than $1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.

(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of $10 will be refunded."

Section 3. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

(i) licensed attorney who is qualified to practice law in this state;

(ii) salaried employee of an insurer or of a managing general agent;

(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer;

(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

(v) claims examiner as defined in 39-71-116.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster *or a public adjuster*.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by the insurer in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from the company's credit card holders who have authorized the company to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

(5) "Consultant" means an individual who for a fee examines, appraises, reviews, evaluates, makes recommendations, or gives advice regarding an insurance policy, annuity, or pension contract, plan, or program.

(6) "Consultant license" means a document issued by the commissioner that authorizes an individual to act as an insurance consultant.

(7) "Exchange" means a health benefit exchange established by the state of Montana or an exchange established by the United States department of health and human services in accordance with 42 U.S.C. 18031.

(8) "Home state" means the District of Columbia or any state or territory of the United States in which a person licensed under this chapter maintains a principal place of residence or a principal place of business.

(9) "Individual" means a natural person.

(10) "Insurance producer", except as provided in 33-17-103, means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(11) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

(12) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the lines of authority

specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

(13) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

(14) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(15) "Limited lines insurance" means those lines of insurance that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

(16) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

(17) "Lines of authority" means any kind of insurance as defined in Title 33.

(18) "Navigator" means a person certified by the commissioner under 33-17-241 and selected to perform the activities and duties identified in 42 U.S.C. 18031, et seq.

(19) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

(20) "Person" means an individual or a business entity.

(21) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(22) "Sell" means to exchange a contract of insurance by any means, for money or the equivalent, on behalf of an insurance company.

(23) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(24) "Suspend" means to bar the use of a person's license for a period of time."

Section 4. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license — qualifications — catastrophe adjustments ~~— public adjuster~~ — education and examination exemption. (1) An individual may not act as or purport to be an adjuster in this state unless ~~licensed as an adjuster under this chapter~~ *the individual holds an adjuster license*. An individual shall apply to the commissioner for an adjuster license in a form approved by the commissioner. The commissioner shall issue the ~~adjuster~~ license to individuals qualified to be licensed ~~as an adjuster~~ *under this section*.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or older;

(b) (i) must be a resident of Montana or a resident of another state that permits residents of Montana regularly to act as adjusters in the other state; or

(ii) if not a resident of this state, shall designate a home state in which the adjuster does not maintain a place of business or residence if:

(A) the adjuster's principal state of business or residence does not offer adjuster licensure; and

(B) the adjuster qualifies for the license as if the adjuster were a resident of the designated home state;

(c) except as provided in subsection (4), shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation;

(e) shall submit to a licensing background examination that meets the requirements provided in 33-17-220; and

(f) shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A business entity, whether or not organized under the laws of this state, may be licensed ~~as an adjuster~~ *under this section* if each individual who is to exercise the ~~adjuster~~ license powers is separately licensed or is named in the business entity ~~adjuster~~ license and is qualified for an individual ~~adjuster~~ license *under this section*.

(4) (a) Subject to the provisions of subsection (4)(b), an individual who applies for a nonresident ~~adjuster~~ license *under this section* in this state and who was previously licensed in another state may not be required to complete any prelicensing education or examination *requirements*.

(b) The exemption in subsection (4)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and the other state issues a certification or the state's database records indicate that, at the time of the cancellation, the individual was in good standing in that state.

(5) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting business entity for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(6) ~~An adjuster~~ *A* license *issued under this section* continues in force until lapsed, suspended, revoked, or terminated. The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(7) ~~The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters~~ *For purposes of this section, "adjuster" includes adjusters and public adjusters as defined in 33-17-102.*"

Section 5. Public adjuster contracts — financial disclosure. (1) A person licensed as a public adjuster may not act as a public adjuster unless the person has a written contract with the insured. Written contracts must be filed with the commissioner and must contain all of the following:

(a) legible full name of the adjuster signing the contract as specified in records held by the commissioner;

(b) business address and telephone number of the public adjuster;

(c) license number of the public adjuster;

(d) title specifying "public adjuster contract";

(e) insured's full name, street address, insurer name, and policy number, if known or upon notification;

(f) description of the loss and its location, if applicable;

(g) description of services to be provided to the insured;

(h) signatures of the public adjuster and the insured;

(i) date the contract was signed by the public adjuster and the date the contract was signed by the insured;

(j) attestation language stating that the public adjuster is fully bonded pursuant to state law; and

(k) full salary, fee, commission, compensation, or other consideration the public adjuster is to receive for services.

(2) A public adjuster contract may not contain any contract term that:

(a) allows the public adjuster's percentage fee to be collected when money is due from an insurer but not paid or that allows a public adjuster to collect the entire fee from the first payment issued by the insurer rather than as a percentage of each payment issued by an insurer;

(b) requires the insured to authorize an insurer to issue payment only in the name of the public adjuster;

(c) imposes collection costs or late fees; or

(d) precludes an insured from pursuing civil remedies.

(3) If the insurer either pays or commits in writing to pay the insured policy limits of the insurance policy within 72 hours after the date the loss is reported, the public adjuster may not:

(a) receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim; or

(b) inform the insured that loss recovery amount will likely not be increased by the insurer.

(4) A public adjuster shall provide the insured with a written disclosure document concerning any direct or indirect financial interest that the public adjuster has with any other party involved in any aspect of the claim or services rendered by the public adjuster. The document must include a disclosure of any ownership interest in an entity that performs work in conjunction with the claim on which the public adjuster is engaged, including but not limited to any:

(a) construction firm;

(b) salvage firm;

(c) building appraisal firm;

(d) motor vehicle repair shop; or

(e) other entity that provides estimates for work or that performs any work.

Section 6. Public adjuster standards of conduct. A public adjuster:

(1) is obligated to serve with objectivity and loyalty to the interest of the insured alone;

(2) may not solicit or attempt to solicit an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract;

(3) may not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required;

(4) may not acquire any interest in the salvage of property subject to the contract with the insured without written permission from the insured;

(5) shall abstain from referring or directing the insured to any person with whom the public adjuster has a financial interest unless disclosed to the insured pursuant to [section 5(4)].

Section 7. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue ~~an insurance producer's license, adjuster license, or consultant license,~~ *a license under this chapter,* may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions when ~~an insurance producer, adjuster, consultant,~~ *a licensee* or applicant for ~~those licenses~~ *licensure* has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

(g) misrepresented the terms of an actual or proposed insurance contract or application for insurance;

(h) been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

(i) had a similar license denied, suspended, or revoked in any other state;

(j) forged another's name to an application for insurance or to any document related to an insurance transaction;

(k) cheated on an examination for a license;

(l) knowingly accepted insurance business from a person who is not licensed;

(m) failed to comply with a final administrative or court order imposing a child support obligation; or

(n) failed to pay state income tax determined to be delinquent or to comply with any final administrative or court order directing payment of state income tax.

(2) The license of a business entity may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

(3) The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the

insurance code even if the person's license or registration has been surrendered, suspended, revoked, refused, or denied or has lapsed."

Section 8. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, revocation, or refusal of a license, the commissioner shall notify the licensee or applicant by mail addressed to the licensee or applicant at the last-known address contained in the records of the commissioner. Notice is effectuated when mailed.

(2) The commissioner may reissue a license that has lapsed if the ~~insurance producer~~ *licensee* has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

(3) The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

(4) If the license of a business entity is suspended or revoked, a member, officer, or director of the business entity may not be licensed or be designated in a license to exercise the business entity's powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 9. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting ~~as insurance producer or adjuster~~ without license — penalty. (1) In addition to the requirements and penalties described in 33-17-201 and 33-17-411, a person who, in this state, acts ~~as an insurance producer or adjuster~~ without having authority to do so by virtue of a license issued and in force pursuant to this chapter is subject to the provisions of 33-1-317 and 33-1-318 and may be subject to conviction of a crime.

(2) A person convicted under this section shall, for a first conviction, be fined $500 or imprisoned in the county jail for 90 days, or both. For a second conviction, the person shall be fined an amount not to exceed $1,000 or incarcerated for a term not to exceed 1 year, or both. For a third or subsequent conviction, the person shall be fined an amount not to exceed $5,000 or incarcerated for a term not to exceed 2 years, or both."

Section 10. Section 33-17-1202, MCA, is amended to read:

"33-17-1202. Purpose. The purposes of this part are to:

(1) protect insurance consumers and dedicated insurance producers, adjusters, *public adjusters,* and consultants by requiring continuing education for insurance producers, adjusters, *public adjusters,* and consultants;

(2) better educate insurance producers, adjusters, *public adjusters,* and consultants about changes in insurance law, products, ethical conduct as an insurance producer, adjuster, or consultant, marketing, and management; and

(3) provide standards for the qualification of instructors, courses, and materials."

Section 11. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education — basic requirements — exceptions. (1) Unless exempt under subsection (3):

(a) an individual licensed to act as an insurance producer, adjuster, *public adjuster,* or consultant other than an individual licensed only for surety bail bonds or for limited lines credit insurance shall, during each 24-month period, complete at least 24 credit hours of approved continuing education, including at least 3 hours of ethics credits and at least 1 credit hour on changes in Montana insurance statutes and administrative rules;

(b) an individual licensed to act as an insurance producer only for surety bail bonds, prepaid legal insurance, or limited lines credit insurance shall, during each biennium, complete 5 credit hours of approved continuing education, including at least 1 credit hour on changes in Montana insurance statutes and administrative rules and the remaining credit hours in the areas of insurance law, ethics, or topics specific to surety bail bonds, prepaid legal insurance, or limited lines credit insurance.

(2) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(3) The minimum continuing education requirements do not apply to:

(a) an individual holding a temporary license issued under 33-17-216; or

(b) an insurance producer, adjuster, *public adjuster,* or consultant otherwise exempted by the commissioner."

Section 12. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance — failure to comply — rulemaking authority. (1) Each individual subject to the requirements of 33-17-1203 shall file biennially in a format supplied by the commissioner certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that individual during the preceding biennium.

(2) If an individual fails to comply with this section, the individual's license lapses. An individual with a lapsed license may not conduct insurance business under another person's license, including a business entity license affiliation.

(3) In the continuing education affidavit, an insurance producer*,* ~~or~~ adjuster*, or public adjuster* shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer*,* ~~or~~ adjuster*, or public adjuster* in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all individuals who have successfully completed an approved continuing education activity during the preceding calendar year.

(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 13. Codification instruction. [Sections 5 and 6] are intended to be codified as an integral part of Title 33, chapter 17, part 3, and the provisions of Title 33, chapter 17, part 3, apply to [sections 5 and 6].

Section 14. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 15. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 16. Effective date. [This act] is effective on passage and approval.

Approved March 30, 2015

CHAPTER NO. 140

[HB 124]

AN ACT REVISING RETIREMENT PLAN LAWS TO ENSURE FEDERAL TAX QUALIFICATION; REVISING COMMINGLED AND GROUP TRUST PROVISIONS TO COMPLY WITH FEDERAL LAW; REVISING THE MORTALITY TABLES USED TO DETERMINE COMPLIANCE WITH FEDERAL LAW; REVISING REFERENCES TO ELIGIBILITY FOR MILITARY SERVICE TO COMPLY WITH FEDERAL LAW; REVISING THE CATCH-UP AGE FOR PUBLIC SAFETY EMPLOYEES PARTICIPATING IN A DEFERRED COMPENSATION PLAN TO COMPLY WITH NORMAL RETIREMENT AGE PROVISIONS; REVISING THE DEFINITION OF DEFERRED COMPENSATION PLAN PARTICIPANT TO INCLUDE ANYONE ENROLLED IN A DEFERRED COMPENSATION PLAN, WHETHER STILL EMPLOYED OR NOT; AMENDING SECTIONS 19-2-504, 19-2-1001, 19-2-1014, 19-3-2102, 19-50-101, AND 19-50-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-2-504, MCA, is amended to read:

"19-2-504. Investment of pension trust funds. (1) Except as provided in chapter 3, part 21, of this title, the pension trust funds of the retirement systems must be invested by the state board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

(2) All income earned on any assets constituting a part of the pension trust funds must be paid into the appropriate pension trust funds as received.

(3) The pension trust funds *and the defined contribution retirement plan's long-term disability plan trust fund provided for in 19-3-2141* may be commingled for investment purposes, ~~but separate accounts must be maintained for each system.~~ *to the extent permitted by Montana law and as permitted under I.R.S. Revenue Ruling 81-100,1981-1 Cumulative Bulletin 326, I.R.S. Revenue Ruling 2004-67, 2004-2 Cumulative Bulletin 28, I.R.S. Revenue Ruling 2011-1, 2011-2 Internal Revenue Bulletin 251, and I.R.S. Revenue Ruling 2014-24, 2014-37 Internal Revenue Bulletin 529 if:*

(a) the trust funds are operated or maintained exclusively for the commingling and collective investment of money; and

(b) the trust funds in the group trust consist exclusively of trust assets held under retirement systems or plans qualified under one or more of the following:

(i) section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(ii) individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, 26 U.S.C. 408(e);

(iii) eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b); and

(iv) governmental plans under section 401(a)(24) of the Internal Revenue Code, 26 U.S.C. 401(a)(24).

(4) For purposes of subsection (3), a trust includes a custodial account that is treated as a trust under section 401(f) or 457(g)(3) of the Internal Revenue Code, 26 U.S.C. 401(f) or 457(g)(3).

(5) The board shall adopt any collective or common group trust to which assets of the retirement systems or plans are transferred for investment pursuant to subsection (3) as part of the respective retirement systems or plans by executing appropriate participation agreements, adoption agreements, or trust agreements with the group trust's trustee.

(6) The separate accounts maintained by the group trust for retirement systems or plans pursuant to subsection (7) may not be used for or diverted to any purpose other than for the exclusive benefit of the members and beneficiaries of those retirement systems or plans.

(7) For purposes of valuation, separate accounts must be maintained for each system or plan, and the value of the separate account maintained by the group trust for the system or plan must be the fair market value of the portion of the group trust held for the system or plan, determined in accordance with generally recognized valuation procedures."

Section 2. Section 19-2-1001, MCA, is amended to read:

"19-2-1001. Maximum contribution and benefit limitations. (1) (a) Employee contributions paid to and retirement benefits paid from a retirement system or plan may not exceed the annual limits on contributions and benefits, respectively, allowed by section 415 of the Internal Revenue Code, 26 U.S.C. 415.

(b) For purposes of determining whether the annual limitations in subsection (1)(a) are met:

(i) all defined benefit plans of the employer, whether or not terminated, must be treated as a single defined benefit plan;

(ii) all defined contribution plans of the employer, whether terminated or not, must be treated as a single defined contribution plan;

(iii) retirement systems and plans established under Title 19 must be prioritized for disqualification purposes above any plans not established under Title 19; and

(iv) retirement systems and plans established under Title 19 that must be aggregated for purposes of the limits in section 415 of the Internal Revenue Code, 26 U.S.C. 415, must be prioritized for qualification purposes based on the system or plan providing the member with the highest benefit.

(2) A member may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d).

(3) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to a retirement system or plan if the amount of the contribution would exceed the limits provided in section 415 of the Internal Revenue Code, by using the following methods:

(a) If the law requires a lump-sum payment for the purchase of service credit, the board may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the Internal Revenue Code, 26 U.S.C. 415(c) or 415(n).

(b) If payment pursuant to subsection (3)(a) will not avoid a contribution in excess of the limits imposed by section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c), the board shall either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(4) (a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under a retirement system or plan to which this section applies, then the requirements of this section will be treated as met only if:

(i) except as provided in subsection (4)(b), the requirements of section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), are met, determined by treating the accrued benefit derived from all the contributions as an annual benefit for purposes of section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b); or

(ii) except as provided in subsection (4)(c), the requirements of section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c), are met, determined by treating all the contributions as annual additions for purposes of section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c).

(b) For purposes of applying subsection (4)(a)(i), the retirement system or plan may not fail to meet the reduced limit under section 415(b)(2)(C) of the Internal Revenue Code, 26 U.S.C. 415(b)(2)(C), solely by reason of subsection (4)(a).

(c) For purposes of applying subsection (4)(a)(ii), the retirement system or plan may not fail to meet the percentage limitation under section 415(c)(1)(B) of the Internal Revenue Code, 26 U.S.C. 415(c)(1)(B) solely by reason of this subsection (4).

(5) For purposes of subsection (4), the term "permissive service credit" means service credit:

(a) specifically recognized by a plan subject to this chapter for purposes of calculating a plan member's benefit under the member's plan;

(b) that the plan member has not received under the plan;

(c) that the plan member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit; and

(d) effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, service credit for periods for which there is no performance of service, which, notwithstanding subsection (5)(b), may include service credit purchased in order to provide an increased benefit under the plan.

(6) A retirement system or plan fails to meet the requirements of subsection (4) if:

(a) more than 5 years of nonqualified service credit are taken into account; or

(b) any nonqualified service credit is taken into account before the plan member has at least 5 years of participation under the plan.

(7) For purposes of subsection (6), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:

(a) service, including parental, medical, sabbatical, and similar leave, as an employee of the government of the United States, any state or political subdivision of a state, or any agency or instrumentality of a state or of a political subdivision of a state, other than military service or service for credit that was obtained as a result of a repayment of a refund as described in section 415(k)(3) of the Internal Revenue Code, 26 U.S.C. 415(k)(3);

(b) service, including parental, medical, sabbatical, and similar leave, as an employee, other than an employee described in subsection (7)(a), of an education organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 170(b)(1)(A)(ii), that is a public, private, or sectarian school that provides elementary or secondary education through grade 12 or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

(c) service as an employee of an association of employees who are described in subsection (7)(a); or

(d) military service, other than qualified military service under section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), recognized by the system or plan.

(8) In the case of service described in subsection (7)(a), (7)(b), or (7)(c), service must be nonqualified service if recognition of the service would cause a plan member to receive a retirement benefit for the same service under more than one plan.

(9) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the Internal Revenue Code, 26 U.S.C. 403(b)(13)(A) or 457 (e)(17)(A), applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) the limitations in subsection (7) do not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable to the plan under federal law apply to those amounts and any benefits attributable to those amounts.

(10) (a) For purposes of this subsection (10), an eligible plan member is an individual who became a member of the plan before January 1, 1998.

(b) For an eligible plan member, the limitation in section 415(c)(1) of the Internal Revenue Code, 26 U.S.C. 415(c)(1), may not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount that was allowed to be purchased under the terms of the applicable law in effect on August 5, 1997.

(11) The limitation year for purposes of section 415 of the Internal Revenue Code, 26 U.S.C. 415, is the calendar year beginning each January 1 and ending December 31.

(12) (a) "Salary", for the purposes of determining compliance with section 415 of the Internal Revenue Code, 26 U.S.C. 415, and for no other purposes, means compensation as defined in 26 CFR 1.415(c)-1 through 1.415(c)-2(d)(4). However:

(i) employee contributions picked up under section 414(h)(2) of the Internal Revenue Code, 26 U.S.C. 414(h)(2), are excluded from salary; and

(ii) the amount of an elective deferral, as defined in section 402(g) of the Internal Revenue Code, 26 U.S.C. 402(g), or any other contribution that is contributed or deferred by the employer at the election of the member and that is not includable in the gross income of the member because of section 125, 403(b), or 457 of the Internal Revenue Code, 26 U.S.C. 125, 403(b), or 457, is included in the definition.

(b) For limitation years beginning after December 31, 2000, the term includes any elective amounts that are not includable in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue Code, 26 U.S.C. 132(f)(4).

(c) For limitation years beginning no later than January 1, 2008, the term includes compensation paid by the later of 2.5 months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours or compensation for services outside the member's regular working hours such as overtime or shift differential, commissions, bonuses, or other similar payments and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation, or other leave that the member would have been able to use if employment had continued.

(d) For limitation years beginning on or after January 1, 2009, the term, as calculated, may not exceed the annual limit under section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17).

(e) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the Internal Revenue Code, 26 U.S.C. 414(u)(12), a member receiving from an employer differential wage payments as defined under section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2), must be treated as employed by that employer. The differential wage payments must be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c). This provision must be applied to all similarly situated employees in a reasonably equivalent manner.

(13) For the purposes of applying the limits on a defined benefit plan member's annual benefit under section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), the following apply:

(a) Prior to January 1, 2009, any automatic adjustment under the retirement system or a plan subject to this chapter must be taken into consideration when determining a member's applicable limit to the extent required by a reasonable interpretation of 26 CFR 1.415-3(c).

(b) On or after January 1, 2009, with respect to a member who does not receive a portion of the member's annual benefit in a lump sum:

(i) a member's applicable limit must be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

(ii) to the extent the member's annual benefit equals or exceeds the applicable limit, the member is no longer eligible for cost-of-living increases until the benefit plus the accumulated increases are less than the limit; and

(iii) in any subsequent limitation year, the member's annual benefit, including any automatic cost-of-living increase applicable, is subject to the applicable benefit limit, including any adjustment to the dollar limit in section 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), under section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d) and the implementing regulations.

(c) On or after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit must be applied, taking into consideration automatic cost-of-living increases as required by section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), and applicable U.S. treasury regulations.

(d) (i) A member's annual benefit payable under the member's plan in any limitation year may not be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d), and the implementing regulations.

(ii) If the form of benefit without regard to the automatic benefit increase feature is not a straight life or a qualified joint and survivor annuity, then this subsection (13)(d) is applied by either reducing the limit in section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent straight life annuity benefit determined using the following assumptions that take into account the death benefits under the form of benefit:

(A) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3), does not apply, the actuarially equivalent straight life annuity benefit that is the greater of:

(I) the annual amount of any straight life annuity payable to the member under the member's plan commencing at the same annuity starting date as the form of benefit payable to the member; or

(II) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption, or the applicable statutory interest assumption, and ~~the applicable mortality table described in 26 CFR 1.417(e)-1(d)(2)~~ *pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for years prior to January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and pursuant to I.R.S. Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C. 417(e)(3)(B)*; or

(B) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3), applies, the actuarially equivalent straight life annuity benefit that is the greatest of:

(I) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table or tabular factor specified in the plan for actuarial experience;

(II) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption, or the applicable statutory interest assumption, and ~~the applicable mortality table for the distribution under 26 CFR 1.417(e)-1(d)(2)~~ *pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for years prior to*

January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and pursuant to I.R.S. Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C. 417(e)(3)(B); or

(III) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using as the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) prior to January 1, 2009, the rate in effect for the month prior to retirement or, on or after January 1, 2009, the rate in effect for the first day of the plan year with a 1-year stabilization period and~~, in either case, the applicable mortality table for the distribution under 26 CFR 1.417(e)-1(d)(2)~~ *pursuant to I.R.S. Revenue Ruling 2001-62, 2001-2 Cumulative Bulletin 632, for years prior to January 1, 2009, using the applicable mortality tables described in 26 CFR 1.417(e)-1(d)(2) and pursuant to I.R.S. Notice 2008-85, 2008-2 Cumulative Bulletin 905, for years after December 31, 2008, using the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, 26 U.S.C. 417(e)(3)(B), divided by 1.05.*

(iii) With respect to subsections (13)(d)(ii)(A) and (13)(d)(ii)(B), the board's actuary may reduce the limitation found in section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), for testing purposes using the assumptions specified in subsections (13)(d)(ii)(A) and (13)(d)(ii)(B)."

Section 3. Section 19-2-1014, MCA, is amended to read:

"19-2-1014. Compliance with federal laws regarding ~~military~~ service *in uniformed services.* (1) With respect to a member's death occurring on or after January 1, 2007, while the member is performing qualified ~~military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245,~~ *service in the uniformed services as defined in 38 U.S.C. 4303* and to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37), the designated beneficiaries are entitled to benefits that the system would have provided if the member's death had occurred while in covered employment. *In any event, a deceased member's period of qualified service in the uniformed services must be counted for vesting purposes.*

(2) With respect to a member's disability occurring on or after January 1, 2009, while the member is performing qualified ~~military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245,~~ *service in the uniformed services as defined in 38 U.S.C. 4303* and to the extent ~~required~~ *permitted* by section 414(u)(9) of the Internal Revenue Code, 26 U.S.C. 414(u)(9), the member is entitled to any benefits that the system would have provided had the member become disabled while in covered employment."

Section 4. Section 19-3-2102, MCA, is amended to read:

"19-3-2102. Defined contribution plan established — assets to be held in trust — contracted services. (1) The board shall establish within the public employees' retirement system a defined contribution plan in accordance with the provisions of this part. The plan must be established as a pension plan for the exclusive benefit of members and their beneficiaries and as a "qualified governmental plan" pursuant to section 401(a) of the Internal Revenue Code and its implementing regulations. Retirement accounts must be established for each member of the defined contribution plan. Assets of the plan*, including assets of the long-term disability plan pursuant to 19-3-2141,* must be held in

trust. The plan is established in addition to any retirement, pension, deferred compensation, or other benefit plan administered by the state or a political subdivision.

(2) The board may contract for plan administration and use a competitive bidding process when contracting for consulting, educational, investment, recordkeeping, or other services for the plan."

Section 5. Section 19-50-101, MCA, is amended to read:

"19-50-101. Definitions. For the purposes of this chapter, unless a different meaning is plainly implied by the context, the following definitions apply:

(1) "Administrator" or "board" means the public employees' retirement board created in 2-15-1009 or an appropriate officer of a political subdivision.

(2) "Deferred compensation" means the income that an employee may legally defer in a deferred compensation plan established under this chapter pursuant to the rulings of the internal revenue service and that, while invested, is exempt from state and federal income tax on the employee's contribution and on the interest, dividends, and capital gains until ultimately distributed to the employee.

(3) "Eligible deferred compensation plan" means a plan meeting the requirements of section 457 of the Internal Revenue Code*, 26 U.S.C. 457*.

(4) "Employee" means any person, including independent contractors and elected officials, receiving compensation from the state or a political subdivision for performing services.

(5) "Fund" means the state deferred compensation investment account.

(6) "Participant" means *either* an employee *who is enrolled or a previous employee who remains* enrolled in an eligible deferred compensation plan established under this chapter.

(7) "Political subdivision" means any city, town, county, or other political subdivision of the state of Montana, including the Montana university system.

(8) "Roth account" means a separate account within a deferred compensation plan established under this chapter that is composed of after-tax contributions made pursuant to section 402A of the Internal Revenue Code, 26 U.S.C. 402A.

(9) "Roth deferral" means an after-tax contribution by a participant to the participant's deferred compensation account."

Section 6. Section 19-50-104, MCA, is amended to read:

"19-50-104. Eligibility to catch up — normal retirement age. (1) Except as provided in subsection (2), for the purposes of determining a participant's eligibility to catch up on making the maximum annual deferrals allowable, normal retirement age must be specified in writing by the participant and must be no earlier than:

(a) the age at which the participant is eligible to retire pursuant to the participant's Title 19 retirement system because of the participant's age or both age and length of service, without disability, and with the right to receive immediate retirement benefits without actuarial or similar reduction because of retirement before a specified age; or

(b) 65 years of age if the participant is not a member of a Title 19 retirement plan or system, is a member of a defined contribution retirement plan, or is an independent contractor.

(2) An eligible plan with participants that include qualified police or firefighters, as defined under 26 U.S.C. 415(b)(2)(H)(ii)(I), may either:

(a) designate a normal retirement age for the qualified police or firefighters that is no less than ~~40~~ *50* years of age; or

(b) allow a qualified police or firefighter participant to designate a normal retirement age that is between ~~40~~ *50* and 70 1/2 years of age.

(3) Qualified police or firefighters, as defined in 26 U.S.C. 415(b)(2)(H)(ii)(I), include:

(a) police who are members of the municipal police officers' retirement system provided for in Title 19, chapter 9;

(b) police who are members of a local police retirement system provided for in Title 19, chapter 19;

(c) firefighters who are members of the firefighters' unified retirement system provided for in Title 19, chapter 13;

(d) firefighters who are members of a local firefighters' retirement system provided for in Title 19, chapter 18; and

(e) firefighters who are members of the defined benefit retirement plan of the public employees' retirement system provided for in Title 19, chapter 3."

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Retroactive applicability. [Section 2] applies retroactively, within the meaning of 1-2-109, to January 1, 1993.

Approved March 30, 2015

CHAPTER NO. 141

[HB 132]

AN ACT ALLOWING THE REALLOCATION OF CERTAIN UNSPENT SPECIAL REVENUE FUNDS TO COUNTIES THAT HAVE AN ESTABLISHED DRINKING AND DRIVING PREVENTION PROGRAM ON AN EQUAL BASIS; AMENDING SECTION 61-2-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-2-108, MCA, is amended to read:

"61-2-108. Funding allocation for programs to prevent or reduce drinking and driving. *(1)* If the county in which the violation or violations occurred has initiated and maintained a drinking and driving prevention program as provided in 61-2-106, the department shall transmit the county portion of the proceeds of the license reinstatement fees collected in that county to the county treasurer, as provided in 61-2-107(2), at the end of each quarter.

(2) Funds deposited in the state special revenue fund pursuant to 61-2-107(2) for violations occurring in a county that has not initiated and maintained a drinking and driving prevention program as provided in 61-2-106 must be distributed July 1 of each year, on an equal basis, to those counties that have an approved program under 61-2-106."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved March 30, 2015

CHAPTER NO. 142

[HB 162]

AN ACT REVISING LAWS RELATED TO THE MONTANA DIGITAL ACADEMY; PROHIBITING A SCHOOL DISTRICT FROM CHARGING A FEE TO A STUDENT WHO ENROLLS IN A MONTANA DIGITAL ACADEMY CLASS THAT THE DISTRICT REQUIRES FOR GRADUATION; PROVIDING FUNDING FOR THE ACADEMY THROUGH FEES FOR COURSES PAID BY SCHOOL DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 20-7-1201, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1201, MCA, is amended to read:

"20-7-1201. Montana digital academy — purposes — governance. (1) There is a Montana digital academy at a unit of the Montana university system.

(2) The purposes of the Montana digital academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; *and* ~~and~~

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana digital academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana-licensed and Montana-endorsed classroom teacher appointed by the board of public education;

(d) a Montana-licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.

(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement *and publish* policies and guidelines for the Montana digital academy pertaining to:

(a) course offerings;

(b) software and hardware selection;

(c) instructor selection;

(d) partnering school agreements;

(e) instructor training and curriculum development;

(f) course evaluation;

(g) grant opportunities; and

(h) other activities that are essential to the success of a statewide distance learning program."

Section 2. Funding — rulemaking authority. (1) (a) In addition to any amount appropriated to the Montana digital academy by the legislature, beginning July 1, 2016, school districts enrolling students at the digital academy shall pay to the digital academy any supplemental fee established by the digital academy that is required to pay for the prorated costs of course delivery that exceed the amount appropriated to the digital academy by the legislature. The fee must be established by the governing board of the digital academy by rule and must be commensurate with the costs of operating the digital academy that exceed the appropriation provided by the legislature.

(b) Fees collected under subsection (1)(a) may be spent only on the operating costs of the digital academy.

(c) The governing board of the digital academy shall adopt rules regarding the establishment of any fees required under subsection (1)(a).

(2) A school district is prohibited from charging a fee to a student who enrolls in a class provided by the Montana digital academy that the school district requires for graduation.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 20, chapter 7, part 12, and the provisions of Title 20, chapter 7, part 12, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved March 30, 2015

CHAPTER NO. 143

[HB 233]

AN ACT GENERALLY REVISING THE JUVENILE DELINQUENCY INTERVENTION ACT; ALLOCATING PARENTAL CONTRIBUTIONS MADE BY A PARENT OR GUARDIAN OF A YOUTH UNDER THE JURISDICTION OF THE YOUTH COURT TO THE OFFICE OF COURT ADMINISTRATOR; AUTHORIZING THE OFFICE OF COURT ADMINISTRATOR TO ADMINISTER JUVENILE PLACEMENT FUNDS APPROPRIATED TO THE JUDICIAL BRANCH; REQUIRING THE COST CONTAINMENT REVIEW PANEL TO SERVE IN AN ADVISORY CAPACITY TO THE OFFICE OF COURT ADMINISTRATOR; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO ESTABLISH AND ADMINISTER A COST CONTAINMENT POOL; MAKING DISCRETIONARY THE OFFICE OF COURT ADMINISTRATOR'S EVALUATION OF OUT-OF-HOME PLACEMENTS, PROGRAMS, AND SERVICES; PROVIDING FUNDING FOR THE EVALUATION FROM THE COST CONTAINMENT POOL; INCREASING THE FUNDING AVAILABLE FOR THE EVALUATION; ELIMINATING THE REQUIREMENT THAT A YOUTH COURT SUBMIT QUARTERLY REPORTS DOCUMENTING THE USE OF DIVERSION AND PREVENTION PROGRAMS AND PLACEMENT SERVICES; EXPANDING THE PURPOSES FOR WHICH A JUDICIAL DISTRICT MAY USE ITS ALLOCATION FROM THE YOUTH COURT INTERVENTION ACCOUNT;

REVISING THE POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTIONS; REVISING THE SCOPE OF JUDICIAL BRANCH POLICIES AND PROCEDURES; AMENDING SECTIONS 41-5-103, 41-5-112, 41-5-121, 41-5-130, 41-5-131, 41-5-132, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-2003, 41-5-2004, 41-5-2005, 41-5-2006, 41-5-2011, 41-5-2012, AND 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.

(6) "Cost containment pool" means *an account from which* funds *are* allocated by the ~~department~~ *office of court administrator* under 41-5-132 ~~for distribution by the cost containment review panel~~ *to a judicial district that exceeds its annual allocation for juvenile out-of-home placements, programs, and services or to the department for costs incurred under 41-5-1504*.

(7) "Cost containment review panel" means the panel established in 41-5-131.

(8) "Court", when used without further qualification, means the youth court of the district court.

(9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(10) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(11) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation.

(12) "Department" means the department of corrections provided for in 2-15-2301.

(13) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b) or who are under parole supervision.

(b) Department records do not include information provided by the department to the department of public health and human services'

management information system or information maintained by the youth court through the office of court administrator.

(14) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of a youth parole agreement.

(15) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(16) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

(17) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(18) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(19) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(20) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(21) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(22) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of a day, whichever is less, in 1 school year.

(23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(24) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(25) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a colocated juvenile detention facility that complies with 28 CFR, part 31.

(26) "Judge", when used without further qualification, means the judge of the youth court.

(27) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(28) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(29) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(30) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(31) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(32) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(33) "Probable cause hearing" means the hearing provided for in 41-5-332.

(34) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(35) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(36) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(37) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(38) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(39) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(40) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(41) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

(42) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.

(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

(45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

(48) "Youth care facility" has the meaning provided in 52-2-602.

(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge, juvenile probation officers, and assessment officers.

(50) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a colocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention."

Section 2. Section 41-5-112, MCA, is amended to read:

"41-5-112. Parental contributions account — allocation of proceeds. (1) There is a parental contributions account in the state special revenue fund.

(2) Contributions paid by the parents and guardians of youth under this chapter must be deposited in the account.

(3) ~~All money~~ *Contributions* in the account *paid by a parent or guardian of a youth under the jurisdiction of the youth court*, except any amount required to be returned to federal sources, ~~is~~ *are* allocated to the ~~department~~ *office of court administrator* to offset the cost of out-of-home placements, programs, and services for youth under the jurisdiction of the youth court ~~or department~~.

(4) Contributions in the account paid by a parent or guardian of a youth under the jurisdiction of the department, except any amount required to be returned to federal sources, are allocated to the department to offset the cost of out-of-home placements, programs, and services for youth under the jurisdiction of the department."

Section 3. Section 41-5-121, MCA, is amended to read:

"41-5-121. Youth placement committees — composition. (1) In each judicial district, the youth court and the department shall establish a youth placement committee for the purposes of:

(a) recommending an appropriate placement of a youth committed to the youth court under 41-5-1512 or 41-5-1513 or committed to the department under 41-5-1513; or

(b) recommending available community services or alternative placements whenever a change is required in the placement of a youth who is currently in the legal custody of the youth court under 41-5-1512 or 41-5-1513 or the department under 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of a state youth correctional facility regarding the discharge of a youth from the facility or the placement of a youth on parole under the department's jurisdiction.

(2) (a) The committee consists of not less than five members and must include persons who are knowledgeable about the youth, treatment and placement options, and other resources appropriate to address the needs of the youth.

(b) The committee must include:

(i) a juvenile parole officer employed by the department;

(ii) a representative of the department of public health and human services;

(iii) the chief juvenile probation officer or the chief juvenile probation officer's designee. The officer or the officer's designee is the presiding officer of the committee.

(iv) a mental health professional; and

(v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian culture and Indian family matters.

(c) The committee may include:

(i) a representative of a school district located within the boundaries of the judicial district who has knowledge of and experience with youth;

(ii) the youth's parent or guardian;

(iii) a youth services provider; and

(iv) the youth's juvenile probation officer.

(3) The youth court judge shall appoint all members of the youth placement committee except the juvenile parole officer. The director of the department shall appoint the juvenile parole officer and shall, when making the appointment, take into consideration:

(a) the juvenile parole officer's qualifications;

(b) the costs involved in the juvenile parole officer's attendance at youth placement committee meetings; and

(c) the location of the juvenile parole officer's home in relation to the location of the youth placement committee.

(4) Committee members serve without compensation.

(5) The committee may be convened by request of the department to the presiding officer or by the chief juvenile probation officer.

(6) If a representative of the school district within the boundaries of which the youth is recommended to be placed and will be attending school is not included on the committee, the person who convened the committee shall inform the school district of the final placement decision for the youth.

(7) The ~~department~~ *office of court administrator* may not charge expenditures to the judicial district allocations established pursuant to 41-5-130 unless the youth court ~~and the department have~~ *has* established a youth placement committee as provided in this section."

Section 4. Section 41-5-130, MCA, is amended to read:

"41-5-130. ~~Department~~ *Office of court administrator* to administer juvenile placement funds — ~~transfer of funds —~~ allocations — *deposit of unexpended funds.* (1) The ~~department~~ *office of court administrator* shall administer juvenile placement funds ~~as~~ appropriated *to the judicial branch* by the legislature in accordance with this chapter. ~~The department shall consult with the office of court administrator when developing its budget request for juvenile placement funds for submission to the budget director as provided in 17-7-112.~~

~~(2) For each fiscal year, the department shall transfer $25,000 from the appropriated juvenile placement funds to the office of court administrator for evaluations of out-of-home placements, programs, and services as provided in 41-5-2003. The office shall deposit the funds in the youth court intervention and prevention account provided for in 41-5-2011.~~

~~(3) For each fiscal year, the department shall, after transferring funds under subsection (2) and allocating funds to the cost containment pool under 41-5-132, allocate 11% of the remaining appropriated juvenile placement funds for juvenile parole out-of-home placements, programs, and services.~~

(2) For each fiscal year, the department shall administer appropriated juvenile placement funds for juvenile parole out-of-home placements, programs, and services.

~~(4)~~*(3)* For each fiscal year, the ~~department~~ *office of court administrator* shall~~, after allocating~~ *allocate* funds ~~under subsection (3),~~ *to the cost containment pool under 41-5-132 and* allocate the remaining appropriated juvenile placement funds to each judicial district according to a formula ~~established~~ *recommended* by the cost containment review panel provided for in 41-5-131 *and adopted by the office of court administrator*.

~~(5)~~*(4)* A judicial district may expend funds from its annual allocation for out-of-home placements or for other programs or services intended to reduce or prevent juvenile delinquency subject to the provisions of subsection ~~(6)~~ *(5)*.

~~(6)~~*(5)* (a) Except as provided in subsection ~~(6)(b)~~ *(5)(b)*, a judicial district shall reserve at least ~~80%~~ *50%* of its annual allocation for out-of-home placements and the remainder for programs or services.

(b) A judicial district may reserve ~~up to~~ *more than* 50% of its annual allocation for programs or services if:

(i) the programs or services have, based on demonstrated outcomes, reduced the number of placements in correctional facilities or higher-cost residential placements; and

(ii) the judicial district would not require funding from the cost containment pool, provided for in 41-5-132, in the same fiscal year in which the annual allocation is made under this subsection ~~(6)(b)~~ *(5)(b)*.

~~(7) A judicial district that intends to expend funds from its annual allocation on an out-of-home placement, program, or service for a person who is 18 years of age or older shall submit to the cost containment review panel a plan describing how the funds will be used. The cost containment review panel shall approve or disapprove the plan. If the plan is approved, the judicial district may expend funds from its annual allocation to implement the plan.~~

~~(8)~~*(6)* At the end of each fiscal year, after all valid obligations have been paid or encumbered for payment, the ~~department~~ *office of court administrator* shall ~~transfer~~ *deposit* any unexpended funds from the judicial districts' annual allocations provided for in this section ~~to the office of court administrator for deposit~~ into the youth court intervention and prevention account provided for in 41-5-2011."

Section 5. Section 41-5-131, MCA, is amended to read:

"41-5-131. Cost containment review panel — duties. (1) The ~~department~~ *supreme court* shall establish a cost containment review panel *to advise the office of court administrator in administering the cost containment pool and youth court intervention and prevention account*.

(2) (a) The members of the cost containment review panel must be appointed as follows:

(i) three members appointed by the director of the department ~~of corrections~~;

(ii) three members appointed by the chief justice of the supreme court; and

(iii) one member who is a professional working in the field of children's mental health appointed by the director of the department of public health and human services.

(b) Each appointing authority under subsection (2)(a) shall appoint one person to serve as the alternate for a member appointed by the authority who is unable to participate in a cost containment review panel meeting.

(3) ~~Decisions~~ *Recommendations* of the cost containment review panel must be made by majority vote of the members of the cost containment review panel or their alternates.

(4) The cost containment review panel shall:

(a) ~~establish the~~ *recommend a* formula for the annual allocation to each judicial district as provided in 41-5-130;

~~(b) approve or disapprove plans for out-of-home placements, programs, or services for persons 18 years of age or older as provided in 41-5-130;~~

~~(c)~~*(b)* recommend an amount to be allocated to the cost containment pool as provided in 41-5-132;

~~(d)~~*(c)* ~~approve~~ *review* requests by judicial districts for allocations from the cost containment pool *and recommend to the office of court administrator whether each request should be approved* as provided in 41-5-132;

~~(e)~~*(d)* approve requests by the department for reimbursement from the cost containment pool as provided in 41-5-132;

(e) provide recommendations to the department regarding placement for youth as provided in 41-5-1504;

(f) provide recommendations on the evaluation of out-of-home placements, programs, and services as provided in 41-5-2003; *and*

(g) review plans submitted under 41-5-2012 and recommend to the office of court administrator whether each plan should be approved~~; and~~

~~(h) adopt procedures for the operation of the cost containment review panel~~."

Section 6. Section 41-5-132, MCA, is amended to read:

"41-5-132. Cost containment pool — allocation of appropriated funds — ~~authorization of~~ allocation from pool — ~~transfer~~ *deposit* of unexpended funds. (1) (a) The ~~department~~ *office of court administrator* shall establish a cost containment pool. After considering the cost containment review panel's recommendation as provided for in subsection (1)(b), the ~~department~~ *office of court administrator* shall allocate to the cost containment pool at the beginning of each fiscal year not less than $1 million from the funds appropriated for juvenile placements.

(b) The cost containment review panel shall submit to the ~~department~~ *office of court administrator* a recommended amount to be allocated to the cost containment pool at least 1 month prior to the start of each fiscal year. The cost containment review panel shall establish a methodology for determining the recommended amount to be allocated to the cost containment pool.

(2) ~~According to criteria and procedures adopted by~~ *Before a judicial district exceeds its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services, the judicial district shall submit to* the cost containment review panel *a request for an allocation from the cost containment pool. After reviewing the request*, the cost containment review panel ~~may authorize~~ *shall recommend to the office of court administrator whether* an

allocation from the cost containment pool *should be made* to ~~a~~ *the* judicial district ~~that has exceeded its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services. The judicial district shall request an allocation from the cost containment review panel before exceeding its annual allocation~~. *After considering the cost containment review panel's recommendation, the office of court administrator may approve the judicial district's request and disburse funds from the pool for expenditure by the judicial district.*

(3) (a) According to criteria and procedures established by the cost containment review panel, the cost containment review panel may authorize an allocation from the cost containment pool to the department for a request submitted under subsection (3)(b).

(b) The department may request at the end of the fiscal year that the cost containment review panel reimburse the department from the cost containment pool for costs incurred under 41-5-1504(3) for placing a youth found to be suffering from a mental disorder, including costs for transporting the youth. Before requesting reimbursement, the department shall expend its ~~state youth correctional facility~~ budgets for ~~mental health~~ placements *and services to youth* and any parental contributions or federal funds, for which the department has spending authority, or private insurance payments received for treatment.

(4) In addition to any disbursement made by the ~~cost containment review panel~~ *office of court administrator* under subsection (2) or (3), the ~~department~~ *office* may expend funds from the cost containment pool to*:*

(a) reimburse cost containment review panel members or alternates for travel expenses, as provided in 2-18-501 through 2-18-503, and to pay the actual costs incurred in conducting a cost containment review panel meeting, excluding salary and benefits for employees providing support services to the cost containment review panel*; and*

(b) conduct an evaluation of out-of-home placements, programs, and services as provided in 41-5-2003. The office of court administrator may not expend more than $50,000 each year from the cost containment pool to conduct the evaluation.

(5) The ~~department~~ *office of court administrator* shall ~~transfer~~ *deposit* any amount remaining in the cost containment pool at the end of each fiscal year ~~to the office of court administrator for deposit in~~ *into* the youth court intervention and prevention account provided for in 41-5-2011."

Section 7. Section 41-5-1504, MCA, is amended to read:

"41-5-1504. Finding of suffering from mental disorder and meeting other criteria — rights — limitation on placement. (1) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-119.

(2) A youth who, prior to placement or sentencing, is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a state youth correctional facility.

(3) *(a)* A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1)*,* after placement in or sentencing to a state youth correctional facility must be moved to a more appropriate placement in response to the youth's mental health needs and consistent with the disposition alternatives available in 53-21-127.

(b) (i) If before removing the youth from the facility the department determines that it will request funds for the youth's placement from the cost containment pool as provided for in 41-5-132, the department may ask the cost containment review panel to make recommendations to the department about the most appropriate placement for the youth. The department shall provide the cost containment review panel with sufficient information about the youth to allow the panel to make its recommendations, and the department shall consider the panel's recommendations before making its placement decision.

(ii) The department may request at any time from the cost containment review panel recommendations regarding the youth's placement.

(iii) The cost containment review panel shall establish protocols for making recommendations to the department under this section."

Section 8. Section 41-5-1512, MCA, is amended to read:

"41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments. (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee.

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based ~~upon~~ *on* the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the

confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a youth correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days; *or*

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the ~~cost containment review panel~~ *office of court administrator*."

Section 9. Section 41-5-1513, MCA, is amended to read:

"41-5-1513. Disposition — delinquent youth — restrictions. (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for placement in a state youth correctional facility and recommend to the department that the youth not be released until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state youth correctional facility.

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the youth from the duty to register if the court finds that:

(i) the youth has not previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; and

(ii) registration is not necessary for protection of the public and that relief from registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a youth correctional facility. Once a youth is committed to the department for placement in a state youth correctional facility, the department is responsible for determining an appropriate date of release or an alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509;

(c) require completion of sexual offender treatment; and

(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose ~~upon~~ *on* the youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those

restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or parole, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.

(4) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth, except as provided in 52-5-109.

(5) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the ~~cost containment review panel~~ *office of court administrator*.

(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

Section 10. Section 41-5-2003, MCA, is amended to read:

"41-5-2003. Establishment of program — ~~department duties~~ — office of court administrator duties. (1) There is a juvenile delinquency intervention program. Each judicial district shall participate in the program.

(2) The ~~department~~ *office of court administrator* and the judicial district shall monitor the judicial district's annual allocation provided for in 41-5-130 to ensure that the judicial district does not exceed its allocation.

(3) The ~~department~~ *office of court administrator* shall provide technical assistance to each judicial district for the monitoring of its annual allocation.

(4) The office of court administrator shall assist each youth court in developing placement alternatives and community intervention and prevention programs and services.

(5) (a) ~~Except as provided in subsection (6), each~~ *Each* fiscal year, the office of court administrator ~~shall~~ *may* select out-of-home placements, programs, and services to be evaluated for their effectiveness in achieving the purposes provided in 41-5-2002. The cost containment review panel shall provide recommendations to the office on out-of-home placements, programs, and services to be evaluated and on the scope of the evaluation. Before conducting any evaluation, the office shall obtain approval from the district court council established in 3-1-1602.

(b) The office shall report the results of any evaluation conducted under subsection (5)(a) ~~each year~~ to the department, cost containment review panel, district court council, and law and justice interim committee.

~~(6) On or before June 30 in fiscal years 2011 and 2012, the office of court administrator shall transfer $25,000 in each fiscal year from the youth court intervention and prevention account to the general fund in lieu of conducting the evaluation required by subsection (5) for fiscal years 2011 and 2012.~~"

Section 11. Section 41-5-2004, MCA, is amended to read:

"41-5-2004. Youth court duties. Each youth court shall:

(1) use available resources to develop alternatives for the placement of youth;

(2) use available resources for early intervention strategies for troubled youth;

(3) use a validated risk assessment instrument approved by the office of court administrator for the measurement of risk and the effectiveness of treatment or intervention services for youth pursuant to 41-5-1512 or 41-5-1513; *and*

~~(4) submit quarterly reports to the office of court administrator and the department documenting the use of diversion and prevention programs and the use of placement services; and~~

~~(5)~~*(4)* provide the legislative auditor with access to all records maintained by the youth court *as otherwise permitted by law*."

Section 12. Section 41-5-2005, MCA, is amended to read:

"41-5-2005. Youth placement committee recommendation to youth court judge — acceptance or rejection. (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-5-1513 or to the department under 41-5-1513, a youth placement committee must be convened. Except as provided in subsection (1)(b), the committee shall submit in writing to the youth court judge its primary and alternative recommendations for placement of the youth.

(b) An alternative recommendation is unnecessary if the committee's recommendation is placement in a youth correctional facility.

(2) The committee shall first consider placement of the youth in a community-based facility or program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services are not appropriate.

(4) The primary and alternative recommendations of the youth placement committee must be for similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the recommended placements are dissimilar.

(5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement for the youth.

(6) The youth court may not order a placement or change of placement that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the ~~cost containment review panel~~ *office of court administrator*.

(7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the placement or change of placement will not overspend the annual allocation provided by the ~~department~~ *office of court administrator* under 41-5-130."

Section 13. Section 41-5-2006, MCA, is amended to read:

"41-5-2006. ~~Rulemaking authority —~~ *Judicial branch* policies and procedures. ~~(1) The department shall adopt rules necessary to perform its duties under this chapter, including but not limited to rules regarding:~~

~~(a) monitoring judicial districts' annual allocations provided for in 41-5-130;~~

~~(b) processing payments for out-of-home placements, programs, and services on behalf of the youth courts;~~

~~(c) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132; and~~

~~(d) removing youth with a mental disorder, as defined in 53-21-102, from state youth correctional facilities.~~

~~(2)~~ The district court council, established in 3-1-1602, shall adopt policies and procedures, subject to review by the supreme court, necessary for the youth courts*, cost containment review panel,* and office of court administrator to perform their duties under this chapter, including but not limited to policies and procedures ~~regarding~~ *for*:

~~(a)~~*(1)* ~~guidelines for~~ evaluating out-of-home placements, programs, and services as provided in 41-5-2003;

(2) monitoring judicial districts' annual allocations provided for in 41-5-130;

(3) processing payments for out-of-home placements, programs, and services on behalf of the youth court;

(4) determining the amount to be allocated to the cost containment pool as provided for in 41-5-132;

~~(b)~~*(5)* ~~administration of~~ *submitting judicial district plans to the office of court administrator for expending allocations from* the youth court intervention and prevention account provided for in 41-5-2011;

(6) reviewing judicial district plans by the cost containment review panel and making recommendations to the office of court administrator on plan approval as provided for in 41-5-2012;

~~(c)~~*(7)* monitoring ~~of~~ youth courts to promote consistency and uniformity in the placement of juveniles referred to the youth courts; and

~~(d)~~*(8)* ~~approval of~~ *providing* one or more risk assessment tools to be used by the youth courts."

Section 14. Section 41-5-2011, MCA, is amended to read:

"41-5-2011. Youth court intervention and prevention account — statutory appropriation — administration. (1) There is a youth court intervention and prevention account in the state special revenue fund. The office of court administrator shall deposit in the account the following funds ~~transferred by the department~~:

~~(a) funds transferred under 41-5-130(2) for evaluations of out-of-home placements, programs, and services;~~

~~(b)~~*(a)* unexpended funds from the judicial districts' annual allocations as provided for in 41-5-130~~(8)~~; and

~~(c)~~*(b)* unexpended funds from the cost containment pool as provided for in 41-5-132.

(2) The youth court intervention and prevention account is statutorily appropriated, as provided in 17-7-502, to the supreme court. The office of court administrator shall administer the account in accordance with 41-5-2012."

Section 15. Section 41-5-2012, MCA, is amended to read:

"41-5-2012. Allocation to judicial districts from youth court intervention and prevention account — judicial district plans — cost containment review *and recommendation* ~~— policies and procedures~~. (1) (a) At the beginning of each fiscal year, the office of court administrator shall allocate from the youth court intervention and prevention account to each judicial district an amount equal to the unexpended funds from the judicial district's annual allocation for the previous fiscal year under 41-5-130.

(b) In addition to the amount allocated under subsection (1)(a), at the beginning of each fiscal year, the office of court administrator shall allocate from the youth court intervention and prevention account to all judicial districts the unexpended funds from the cost containment pool ~~transferred~~ *deposited* from the previous fiscal year under 41-5-132. The office shall allocate the funds according to the formula that was used to determine the judicial districts' annual allocations for the previous fiscal year under 41-5-130.

(2) Upon approval of the youth court judge, a judicial district may submit a plan to the office of court administrator for approval to expend the amounts allocated to the judicial district under subsection (1) for one or more of the following purposes:

(a) to establish or expand community prevention and intervention programs and services for youth*, including training for individuals to provide the programs and services to youth*;

(b) to provide an alternative method for funding out-of-home placements; and

(c) to provide matching funds for federal money for intervention and prevention programs that provide direct services to youth.

(3) Two or more judicial districts may jointly submit a plan to combine any portion of the amounts allocated to the districts under subsection (1) to expend funds on a regional or statewide basis in accordance with subsection (2).

(4) The cost containment review panel provided for in 41-5-131 shall review each plan submitted to the office of court administrator~~. The cost containment review panel shall~~ *and* recommend to the office whether ~~each~~ *the* plan should be approved. The office shall consider the cost containment review panel's recommendation before approving or disapproving a plan.

(5) The office of court administrator shall notify the judicial district~~,~~ *and* cost containment review panel~~, and department~~ in writing as to whether a plan has been approved or disapproved. If the office disapproves a plan, the judicial district may submit a revised plan.

(6) (a) A judicial district shall expend the amounts allocated to the district under subsection (1) in accordance with an approved plan by the end of the fiscal year following the fiscal year in which the amounts were allocated under subsection (1).

(b) ~~Any~~ *The office of court administrator shall deposit in the general fund any* portion of the amounts allocated under subsection (1) not expended within the time provided for in subsection (6)(a) ~~must be transferred to the general fund~~.

~~(7) (a) Except as provided in subsection (7)(b), the district court council, established in 3-1-1602, shall adopt policies and procedures, subject to review by the supreme court, for administering this section, including procedures for submitting plans to the office of court administrator and criteria to be used by the office in evaluating and approving the plans.~~

~~(b) The cost containment review panel shall adopt procedures for reviewing plans submitted to the office of court administrator and making recommendations to the office on plan approval.~~"

Section 16. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) to carry out the purposes of 41-5-125;

(ii) for the siting, establishment, and expansion of prerelease centers;

(iii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iv) for the establishment and maintenance of residential methamphetamine treatment programs; and

(v) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) administer all state and federal funds allocated to the department for ~~youth in need of intervention and~~ delinquent youth, as defined in 41-5-103~~, except as provided in 41-5-2012~~;

(h) collect and disseminate information relating to youth who are committed to the department for placement in a state youth correctional facility;

(i) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to ~~youth in need of intervention and~~ delinquent youth in out-of-home care facilities;

(j) provide funding for youth who are committed to the department for placement in a state youth correctional facility;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

(m) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on juvenile parole supervision.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must

provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3."

Section 17. Effective date. [This act] is effective July 1, 2015.

Approved March 30, 2015

CHAPTER NO. 144

[SB 60]

AN ACT REVISING INDECENT EXPOSURE LAWS; CREATING THE OFFENSE OF INDECENT EXPOSURE TO A MINOR; PROVIDING PENALTIES; REVISING SEXUAL OFFENDER REGISTRY PROVISIONS RELATED TO THE OFFENSE OF INDECENT EXPOSURE; AND AMENDING SECTIONS 45-5-504 AND 46-23-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-504, MCA, is amended to read:

"45-5-504. Indecent exposure. (1) A person commits the offense of indecent exposure if the person knowingly or purposely exposes the person's genitals *or intimate parts by any means, including electronic communication as defined in 45-5-625(5)(a),* under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:

(a) abuse, humiliate, harass, or degrade another; or

(b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(2) (a) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

(b) On a second conviction, the person shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.

(c) On a third or subsequent conviction, the person shall be ~~punished by life imprisonment or by imprisonment~~ *fined an amount not to exceed $10,000 or be imprisoned* in a state prison for a term of not ~~less than 5~~ *more than 10* years ~~or more than 100 years and may be fined not more than $10,000~~*, or both*.

(3) (a) A person commits the offense of indecent exposure to a minor if the person commits an offense under subsection (1) and the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim.

(b) A person convicted of the offense of indecent exposure to a minor shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years, or both."

Section 2. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-310, 45-5-311, 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, ~~45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older),~~ 45-5-504(2)(c)*, 45-5-504(3) (if the victim is less than 16 years of age and the offender is 4 or more years older than the victim),*~~,~~ 45-5-507 (if the victim is ~~under~~ *less than* 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

Approved March 30, 2015

CHAPTER NO. 145

[SB 94]

AN ACT REVISING DEFINITIONS AND TERMINOLOGY CONCERNING THE PROCUREMENT OF OFFICE SUPPLIES FOR STATE AGENCIES; AMENDING SECTIONS 18-4-301 AND 18-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-4-301, MCA, is amended to read:

"18-4-301. Definitions. As used in this part, the following definitions apply:

(1) "Alternative procurement method" means a method of procuring supplies or services in a manner not specifically described in this chapter, but instead authorized by the department under 18-4-302.

(2) "American-made" means either a product made exclusively within the United States or a value-added product consisting of a product that contains 50% or more of materials from the United States.

(3) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this chapter and a fee, if any.

(4) (a) "Displacement" means the layoff, demotion, or involuntary transfer of a state employee.

(b) Displacement does not include changes in shift or days off or reassignment to other positions within the same class and at the same general location.

(5) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(6) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

~~(7) "Office supply" means an item included under the office supply commodity class codes maintained by the department.~~

~~(8)~~*(7)* "Purchase description" means the words used in a solicitation to describe the supplies or services to be purchased and includes specifications attached to or made a part of the solicitation.

~~(9)~~*(8)* "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

~~(10)~~*(9)* "Responsible" means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance.

~~(11)~~*(10)* "Responsive" means conforms in all material respects to the invitation for bids or request for proposals.

~~(12)~~*(11)* "Term contract" means a contract in which supplies or services are purchased at a predetermined unit price for a specific period of time."

Section 2. Section 18-4-302, MCA, is amended to read:

"18-4-302. Methods of source selection — authorization for alternative procurement methods. (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) When the department or another agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price is received at or before the time that the bids or proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions for the best proposal received using the same factors and weights included in the proposal, the department or agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) An office supply procured by the ~~department's central stores program~~ *department* may be purchased by an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered by the ~~central stores program~~ *department* if the office supply conforms in all material respects to the terms, conditions, and quality offered by the ~~central stores program~~ *department*. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

(4) (a) Under rules adopted by the department, an agency may request from the department authorization for an alternative procurement method.

(b) A request for authorization must specify:

(i) the problem to be solved;

(ii) the proposed alternative procurement method;

(iii) the reasons why the alternative procurement method may be more appropriate than a method authorized by law; and

(iv) how competition and fairness will be achieved by the alternative procurement method.

(c) Within 30 days after receiving the request, the department shall:

(i) evaluate the request;

(ii) approve or deny the request; and

(iii) issue a written statement providing the reasons for its decision.

(d) Whenever the department approves a request submitted under this section, the department:

(i) may authorize the alternative procurement method on a trial basis; and

(ii) if the alternative procurement method is employed, shall make a written determination as to the success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 30, 2015

CHAPTER NO. 146

[SB 184]

AN ACT REVISING REQUIREMENTS REGARDING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; ALLOWING A MOTOR VEHICLE OPERATOR TO DISPLAY AN ELECTRONIC DOCUMENT SHOWING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; PROVIDING THAT A RESPONSE FROM THE ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM SUPERSEDES AN ELECTRONIC DOCUMENT SHOWING PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; AND AMENDING SECTIONS 61-6-302 AND 61-6-309, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required by 61-6-301.

(2) *(a)* Each owner or operator of a motor vehicle shall carry in the motor vehicle *as proof of compliance with 61-6-301 either:*

(i) an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner ~~as proof of compliance with 61-6-301~~*; or*

(ii) an electronic device on which an electronic document issued by the insurance carrier showing proof of compliance with 61-6-301 may be displayed.

(b) If the card *or electronic document* is issued under a commercial automobile insurance policy or a self-insured fleet, the card *or electronic document* must indicate the status as "commercially insured" or "fleet".

(c) A motor vehicle owner or operator shall exhibit the insurance card *or display the electronic document* ~~upon~~ *on* demand of a justice of the peace, a city

or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department.

(d) A person commits an offense under this subsection if the person fails to carry *in the motor vehicle* the insurance card ~~in a motor vehicle~~ *or an electronic device on which the electronic document may be displayed* or fails to exhibit the insurance card *or display the electronic document* ~~upon~~ *on* demand of a person specified in this subsection.

(3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:

(a) personally; or

(b) by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both.

(4) An owner or operator charged with violating subsection (2) may not be convicted if:

(a) the arresting officer or another person authorized to access information from the online motor vehicle liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that provides proof of insurance valid at the time of arrest; or

(b) ~~if~~ *when* the system under 61-6-157 is not available, the person produces in court or the office of the arresting officer proof of insurance valid at the time of arrest."

Section 2. Section 61-6-309, MCA, is amended to read:

"61-6-309. Law enforcement use of verification system. (1) Notwithstanding the requirements of 61-6-302, a peace officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system provided under 61-6-157 to verify whether a motor vehicle is covered by a valid motor vehicle liability policy that meets the requirements of 61-6-103 and 61-6-301.

(2) (a) Except as provided in subsection (2)(b), the response received from the system supersedes an insurance card *or electronic document showing proof of compliance with 61-6-301* produced *or displayed* by a vehicle owner or operator, and notwithstanding the display of an insurance card *or electronic document* by the owner or operator, the peace officer may issue a complaint and notice to appear to the owner or operator for a violation of 61-6-301 or 61-6-302.

(b) Subsection (2)(a) does not apply if the vehicle is:

(i) covered under a commercial automobile insurance coverage policy;

(ii) part of a self-insured fleet as provided in 61-6-143; or

(iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system at the time the system is accessed under subsection (1) of this section.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301."

Approved March 30, 2015

CHAPTER NO. 147

[SB 196]

AN ACT AUTHORIZING PRIVATE EMPLOYERS TO ADOPT HIRING PREFERENCES FOR VETERANS; AND PROVIDING THAT THE HIRING PREFERENCE MAY NOT BE INTERPRETED TO CONFLICT WITH STATE AND LOCAL EQUAL OPPORTUNITY LAWS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 3] may be cited as the Montana Veteran Hiring Preference Act for Private Employers.

Section 2. Legislative intent — interpretation. (1) The purpose of [sections 1 through 3] is to authorize private sector employers to adopt a hiring preference for veterans.

(2) Pursuant to Article II, section 35, of the Montana constitution, [sections 1 through 3] may not be interpreted to violate any other state or local equal employment opportunity law.

Section 3. Veteran hiring preference for private employers authorized — definition. (1) A private sector employer may adopt an employment policy that gives preference in hiring to a veteran.

(2) For the purposes of [sections 1 through 3], "private sector employer" means any employer that is not a public employer. The term includes for-profit and not-for-profit employers.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 29, and the provisions of Title 39, chapter 29, apply to [sections 1 through 3].

Approved March 30, 2015

CHAPTER NO. 148

[SB 332]

AN ACT ESTABLISHING THE JOSEPH J. DUNN MEMORIAL HIGHWAY IN CASCADE COUNTY, MONTANA, ON INTERSTATE 15 BETWEEN GREAT FALLS AND ULM, ADJACENT TO THE OFFICE OF THE CASCADE COUNTY SHERIFF'S DEPARTMENT; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE LOCATION ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Joseph J. Dunn was killed in the line of duty on August 14, 2014, when he was struck down by a vehicle being pursued by law enforcement; and

WHEREAS, Joseph J. Dunn served his country as a Marine in Afghanistan and served his community as a deputy in the Cascade County Sheriff's Department; and

WHEREAS, Joseph J. Dunn lived his life as a devoted Christian and family man who demonstrated his faith, hope, and love in boundless optimism, tireless self-sacrifice, and quiet courage; and

WHEREAS, Joseph J. Dunn left behind two parents, two siblings, two small children, and a wife, as well as countless fellow law enforcement officers, all of whom loved and were loved by him; and

WHEREAS, after 33 short years of life and so much yet to live for, Joseph J. Dunn gave the ultimate sacrifice while protecting the citizens of Cascade County; and

WHEREAS, the 64th Legislature of the State of Montana wishes to honor his memory and commitment to service.

Be it enacted by the Legislature of the State of Montana:

Section 1. Joseph J. Dunn memorial highway. (1) There is established the Joseph J. Dunn memorial highway on the existing Montana interstate 15 between the Ulm interchange and Gore Hill interchange, which is adjacent to the offices of the Cascade county sheriff's department located on Gore Hill in Cascade county.

(2) The department shall design and install appropriate signs marking the location of the Joseph J. Dunn memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Joseph J. Dunn memorial highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved March 27, 2015

CHAPTER NO. 149

[HB 279]

AN ACT REVISING THE REQUIREMENTS FOR TAGGING GAME ANIMALS AND GAME BIRDS; DEFINING "SITE OF THE KILL"; AMENDING SECTIONS 87-6-101, 87-6-404, 87-6-411, AND 87-6-412, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-101, MCA, is amended to read:

"87-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species Perca flavescens (yellow perch); all species of the genus Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Site of the kill" means the location where a game animal or game bird expires and the person responsible for the death takes physical possession of the carcass.

~~(30)~~*(31)* "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

~~(31)~~*(32)* "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

~~(32)~~*(33)* "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(33)~~*(34)* "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(34)~~*(35)* "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

~~(35)~~*(36)* "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

~~(36)~~*(37)* "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

~~(37)~~*(38)* "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

Section 2. Section 87-6-404, MCA, is amended to read:

"87-6-404. Unlawful use of dog while hunting. (1) Except as provided in subsections (3) through (6), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-6-414;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall ~~immediately~~ tag an animal that has been reduced to possession in accordance with 87-6-411.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal.

(6) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(7) A person *who is* convicted of *or who forfeits bond or bail after being charged with* a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ *and* trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 3. Section 87-6-411, MCA, is amended to read:

"87-6-411. Tagging of game animal offenses. (1) Each license issued by the department authorizing the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any tags~~, coupons, or markers as~~ the department prescribes.

(2) When a person kills a game animal under the license, the person shall ~~immediately cut~~ *take physical possession of the game animal by cutting* out from the *license or* tag~~, coupon, or other marker~~ the date the animal was killed and ~~attach~~ *attaching* the *license or* tag~~, coupon, or other marker~~ to the animal~~,~~ *before the carcass is removed from, or the person leaves, the site of the kill. The license or tag must be:*

(a) completely filled out with the name of the license holder, the license holder's address, and any other information requested on the *license or* tag~~, coupon, or other marker. The tag, coupon, or other marker must be~~*; and*

(b) kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed.

(3) When a game animal has been lawfully killed and the proper *license or* tag~~, coupon, or other marker~~ is attached to the game animal that was killed, the game animal becomes the property of the person who lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

~~(2) A person who kills any game animal by authority of any license issued for the killing of the game animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the game animal or portion of the game animal.~~

~~(3)~~*(4)* A person may not fail to keep the *license or* tag~~, coupon, or other marker~~ attached to the game animal or portion of the game animal while the animal is possessed by the person.

~~(4)~~*(5)* A person may not tag a game animal with a *license or* tag restricted to a hunting district other than the hunting district where the game animal was killed.

~~(5)~~*(6)* A person *who is* convicted of *or who forfeits bond or bail after being charged with* a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ *and* trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court."

Section 4. Section 87-6-412, MCA, is amended to read:

"87-6-412. Tagging of turkey offenses. (1) A person who kills, captures, or possesses a wild turkey by authority of any turkey tag or permit may not:

(a) fail or neglect to attach the tag to the turkey *in compliance with instructions on the tag prior to the person leaving or the turkey being removed from the site of the kill*;

(b) fail to validate the tag by not filling out or punch marking the tag as required; or

(c) fail to keep the tag attached while the turkey is possessed by the person.

~~(2) A person who takes or kills a turkey must immediately attach to the turkey's leg a valid tag in compliance with instructions on the tag.~~

~~(3)~~*(2)* A person *who is* convicted of *or who forfeits bond or bail after being charged with* a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ *and* trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court."

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved March 31, 2015

CHAPTER NO. 150

[HB 355]

AN ACT ALLOWING A HORSE TO BE SURRENDERED TO THE DEPARTMENT OF LIVESTOCK AT A SITE MUTUALLY AGREED UPON BY THE HORSE'S OWNER AND THE DEPARTMENT; AND AMENDING SECTION 81-10-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-10-102, MCA, is amended to read:

"81-10-102. Horse owner amnesty for horse transferred to department ~~at licensed livestock market~~ — fees. (1) A horse owner *who is unable to provide food and water of sufficient quantity and quality to sustain the animal's health* may surrender ownership of a horse to the department at*:*

(a) a licensed livestock market, as defined in 81-8-213~~, if the owner is unable to provide food and water of sufficient quantity and quality to sustain the animal's normal health~~*; or*

(b) a place mutually agreed upon by the horse's owner and the department.

(2) The owner shall pay to the department a fee to be set by rule by the department.

(3) Except as provided in subsections (4) and (5), the department shall sell the horse at a public auction.

(4) A licensed veterinarian may euthanize a horse if the veterinarian determines it to be medically necessary after an inspection of the horse.

(5) The department may allow a surrendered horse to be adopted if a suitable placement can be made and after payment of:

(a) a fee to be set by the department by rule; and

(b) the costs incurred by the department or the public livestock market to maintain the horse.

(6) The fees imposed and the proceeds collected under subsections (2), (3), and (5) must be deposited in the special revenue account provided for in 81-10-103.

(7) A person surrendering a horse to the department under the provisions of this section may not be charged with or prosecuted for cruelty ~~towards~~ *toward* animals pursuant to 45-8-211 or 45-8-217."

Approved March 31, 2015

CHAPTER NO. 151

[HB 390]

AN ACT REVISING LAWS RELATED TO COMMODITY ADVISORY COMMITTEES; CLARIFYING THE PROCESS FOR CREATION OF A COMMODITY ADVISORY COMMITTEE AND ADOPTION OF RESEARCH AND MARKET DEVELOPMENT PROGRAMS; ELIMINATING THE MONTANA CORN CROP ADVISORY COMMITTEE; AMENDING SECTIONS 80-11-510 AND 80-11-512, MCA; REPEALING ARM 4.6.501, 4.6.502, 4.6.503, AND 4.6.504; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-11-510, MCA, is amended to read:

"80-11-510. Creation of commodity advisory committees. (1) The department may create commodity advisory committees *subject to the following:*

(a) Twenty-five or more producers of a commodity shall petition the department to create a commodity advisory committee. The format, information required, and criteria of valid petitions must be established by department rule.

(b) Within 60 days of receipt and verification of a qualified petition, the department shall hold a hearing to receive relevant input from growers, producers, and first purchasers regarding the proposed commodity advisory committee. The department shall advertise the hearing in areas where it is known the commodity is grown and in any applicable trade publication.

(2) Each advisory committee created under this section must be known as the "... advisory committee".

(3) The department shall prescribe the composition and advisory functions of each advisory committee created and appoint advisory committee members, who ~~shall~~ serve at the pleasure of the director. The majority of members on a

crop or livestock commodity advisory committee must be producers of the commodity.

(4) Unless the advisory committee member is a full-time salaried officer or employee of this state or of any political subdivision of this state, each member is entitled to be paid an amount to be determined by the department, not to exceed the daily amount established in 2-15-122(5) for each day in which the member is actually and necessarily engaged in the performance of advisory committee duties. Each member is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of advisory committee duties. Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members, but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(5) Unless otherwise specified by the department, at its first meeting each year, each advisory committee shall elect a presiding officer and other officers whom it considers necessary.

(6) Unless otherwise specified by the department, each advisory committee shall meet at least annually. An advisory committee shall also meet on the call of the department and may meet at other times on the call of the presiding officer or a majority of its members.

(7) A majority of the membership of an advisory committee constitutes a quorum to do business.

(8) In order for the creation of an advisory committee to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the advisory committee created showing the advisory committee's:

(a) name, in accordance with subsection (2);

(b) composition;

(c) names and addresses of the appointed members; and

(d) purpose."

Section 2. Section 80-11-512, MCA, is amended to read:

"80-11-512. Adoption of commodity research and market development program — ~~petition~~ *referendum* — hearing. ~~The department shall adopt commodity research and market development programs subject to the following:~~

~~(1) Twenty-five or more producers of a commodity may petition the department to adopt a research and market development program. The format, information required, and criteria of valid petitions must be established by department rule.~~

~~(2) Within 60 days of receipt and verification of a qualified petition, the department shall hold a hearing to receive relevant input from growers, producers, and first purchasers regarding the proposed commodity research and market development program.~~

(1) A commodity advisory committee formed pursuant to 80-11-510 shall hold at least one public hearing to receive relevant input from affected growers and producers on a proposed referendum, including the amount of the proposed assessment and the method of collection. The department shall advertise the hearing in areas where it is known the commodity is grown and in any applicable trade publication.

~~(3)~~*(2) (a)* After considering the facts and information received at the hearing, ~~the department may~~ *the commodity advisory committee shall vote on whether to* hold a referendum of affected growers and producers.

(b) The referendum must include, among other informational items, the amount of the assessment and the method of collection.

(c) The referendum must be by paper ballot mailed to the last-known address of known growers and producers of the relevant commodity, obtained from lists provided by the petitioner and other sources known to the department.

(d) ~~To be eligible to vote on a referendum, an individual must be a producer who is 18 years of age or older and a Montana resident~~ *Each grower or producer, as defined in 80-11-503, is entitled to one vote.*

(e) If the commodity advisory committee votes against holding a referendum, the committee shall vote whether to dissolve the committee. If the commodity advisory committee votes against dissolution, the committee may continue to advise the department for 1 year from the date of the vote. If a referendum is not held or is defeated within 1 year of the vote, the commodity advisory committee is dissolved.

~~(4)~~*(3)* ~~Based on the facts and information from the hearing and an affirmative majority referendum vote, the department shall adopt a commodity research and market development program. In doing so, the department shall appoint an advisory committee in accordance with 80-11-510.~~ *If the referendum passes, the advisory committee shall propose a research and market development program to the department for adoption.*"

Section 3. Repealer. ARM 4.6.501, 4.6.502, 4.6.503, and 4.6.504 are repealed.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2015

CHAPTER NO. 152

[HB 412]

AN ACT PROVIDING THAT A PERSON UNDER 21 YEARS OF AGE MAY NOT BE CHARGED OR PROSECUTED FOR CERTAIN CRIMINAL OFFENSES IF THE PERSON SEEKS MEDICAL TREATMENT FOR THE PERSON OR ANOTHER PERSON IN CERTAIN CIRCUMSTANCES FOR CONSUMING INTOXICATING SUBSTANCES OR IF EVIDENCE FOR THE CHARGE OR PROSECUTION WAS OBTAINED AS A RESULT OF THE PERSON'S SEEKING OR RECEIVING MEDICAL TREATMENT FOR CONSUMING INTOXICATING SUBSTANCES; PROVIDING DEFINITIONS; AND AMENDING SECTION 45-5-624, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-624, MCA, is amended to read:

"45-5-624. ~~Unlawful~~ *Possession of or unlawful* attempt to purchase ~~or possession of~~ intoxicating substance — interference with sentence or court order. (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages. A

person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) (a) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years of age who is convicted under this section:

(i) for ~~the~~ *a* first offense, shall be fined an amount not less than $100 and not to exceed $300 and:

(A) shall be ordered to perform 20 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available; and

(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);

(ii) for a second offense, shall be fined an amount not less than $200 and not to exceed $600 and:

(A) shall be ordered to perform 40 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available;

(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8);

(iii) for a third or subsequent offense, shall be fined an amount not less than $300 or more than $900, shall be ordered to perform 60 hours of community service, shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available, and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8). If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).

(b) If the convicted person fails to complete the community-based substance abuse *information* course and has a driver's license, the court shall order the license suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense.

(c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b).

(3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance:

(a) for a first offense:

(i) shall be fined an amount not less than $100 or more than $300;

(ii) shall be ordered to perform 20 hours of community service; and

(iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9);

(b) for a second offense:

(i) shall be fined an amount not less than $200 or more than $600;

(ii) shall be ordered to perform 40 hours of community service; and

(iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the court's discretion and ~~upon~~ *on* recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both;

(c) for a third or subsequent offense:

(i) shall be fined an amount not less than $300 or more than $900;

(ii) shall be ordered to perform 60 hours of community service;

(iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the sentencing court's discretion and ~~upon~~ *on* recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and

(iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.

(4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed $150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

(5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in 41-5-103. The youth court may enter its judgment under 41-5-1512.

(6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined $100 or imprisoned in the county jail for 10 days, or both.

(7) A conviction or youth court adjudication under this section must be reported by the court to the department of public health and human services if treatment is ordered under subsection (8).

(8) (a) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment.

(b) The assessment must be completed at a treatment program that meets the requirements of subsection (9) and must be conducted by a licensed addiction counselor. The person may attend a program of the person's choice as long as a licensed addiction counselor provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment.

(c) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment, if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (9).

(d) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based ~~upon~~ *on* the determination of one of the counselors.

(e) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure.

(f) The court shall report to the department of public health and human services the name of any person who is convicted under this section. The department of public health and human services shall maintain a list of those persons who have been convicted under this section. This list must be made available ~~upon~~ *on* request to peace officers and to any court.

(9) (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(b) An alcohol information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol treatment program:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(c) A chemical dependency assessment required under subsection (8) must be completed at a treatment program:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(10) Information provided or statements made by a person under 21 years of age to a health care provider or law enforcement personnel regarding an alleged offense against that person under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this section. This subsection's protection also extends to a person who helps the victim obtain medical or other assistance or report the offense to law enforcement personnel.

(11) (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if:

(i) the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment;

(ii) the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or

(iii) the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.

(b) For purposes of this subsection (11), the following definitions apply:

(i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.

(ii) "Medical treatment" means medical treatment provided by an emergency medical service or health care facility. (See compiler's comments for contingent termination of certain text.)"

Approved March 31, 2015

CHAPTER NO. 153

[HB 414]

AN ACT REMOVING THE REQUIREMENT THAT A LICENSE PLATE BE ISSUED UPON REGISTRATION OF AN OUT-OF-STATE VEHICLE USED IN GAINFUL OCCUPATION IN MONTANA; AMENDING SECTION 61-3-701, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-701, MCA, is amended to read:

"61-3-701. Out-of-state vehicles used in gainful occupation to be registered — reciprocity. (1) A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is registered in another jurisdiction on the highways of this state if the vehicle is used for hire, compensation, or profit or if the person is engaged in gainful occupation or business enterprise in the state, including highway work, unless the motor vehicle, trailer, semitrailer, or pole trailer is registered at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by 61-3-321, 61-3-529, or 61-3-537, the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the vehicle will be located or operated in Montana.

(2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the owner of the motor vehicle, trailer, semitrailer, or pole trailer a registration receipt~~, license plates,~~ and a registration decal indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is registered. The ~~license plates, with attached~~ registration decal~~,~~ must at all times be displayed upon the motor

vehicle, trailer, semitrailer, or pole trailer when operated or driven upon roads and highways of this state during the registration period indicated on the receipt.

(3) The registration receipt does not constitute evidence of ownership but may be used only for registration purposes. A Montana certificate of title may not be issued for a motor vehicle, trailer, semitrailer, or pole trailer registered under this section.

(4) This section is not applicable to a motor vehicle covered by a valid and existing reciprocal agreement or declaration entered into under Montana law."

Section 2. Effective date. [This act] is effective January 1, 2016.

Approved March 31, 2015

CHAPTER NO. 154

[SB 77]

AN ACT REVISING LICENSURE AND OTHER REGULATIONS BY THE BOARD OF MEDICAL EXAMINERS FOR PHYSICIANS AND PHYSICIAN ASSISTANTS; CREATING A RESIDENT PHYSICIAN LICENSE; REPEALING SPECIALIZED, TELEMEDICINE, AND TEMPORARY PHYSICIAN LICENSES; PROVIDING THE BOARD WITH RULEMAKING AUTHORITY FOR TELEMEDICINE GUIDELINES AND SHORT-TERM LICENSES; REVISING AND UPDATING ACCREDITATION ENTITIES; AMENDING SECTIONS 27-6-103, 37-3-102, 37-3-103, 37-3-201, 37-3-203, 37-3-204, 37-3-211, 37-3-301, 37-3-303, 37-3-305, 37-3-307, 37-3-308, 37-3-312, 37-3-321, 37-3-323, 37-3-403, AND 37-20-402, MCA; REPEALING SECTIONS 37-3-304, 37-3-306, 37-3-311, 37-3-315, 37-3-327, 37-3-328, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-345, 37-3-347, 37-3-348, 37-3-349, AND 37-6-304, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-6-103, MCA, is amended to read:

"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose

shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include:

(i) an end-stage renal dialysis facility;

(ii) a home infusion therapy agency;

(iii) a residential care facility; or

(iv) a governmental infirmary, except a university or college infirmary.

(3) "Health care provider" means a physician, a dentist, a podiatrist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

~~(i) has as the individual's principal residence or place of medical practice the state of Montana or practices telemedicine as defined in 37-3-342;~~

(i) has as the individual's principal residence or place of medical practice the state of Montana or practices telemedicine as defined in 37-3-102;

~~(ii)~~*(ii)* is not employed full-time by any federal governmental agency or entity; and

~~(iii)~~*(iii)* is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who ~~had as the principal residence or place of medical practice the state of Montana or practiced telemedicine as defined in 37-3-342 and~~ *had as the principal residence or place of medical practice the state of Montana or practiced telemedicine as defined in 37-3-102 and* was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3.

(8) "Podiatrist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice podiatry under the provisions of Title 37, chapter 6, who at the time of the assessment:

(i) has as the individual's principal residence or place of podiatric practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of podiatry; or

(b) for all other purposes, a person licensed to practice podiatry under the provisions of Title 37, chapter 6, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as the principal residence or place of podiatric practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render podiatric services and whose shareholders, partners, or owners were individual podiatrists licensed to practice podiatry under the provisions of Title 37, chapter 6."

Section 2. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "ACGME" means the accreditation council for graduate medical education.

(2) "AOA" means the American osteopathic association.

~~(1)~~*(3)* "Approved internship" means an internship training program of at least 1 year in a ~~hospital~~ *program* that ~~is~~ either *is* approved for intern training by the ~~American osteopathic association~~ *AOA* or conforms to the ~~minimum~~ standards for intern training established by the ~~council on medical education of the American medical association~~ *ACGME* or successors. However, the board may, upon investigation, approve any other internship.

~~(2)~~*(4)* "Approved medical school" means a school that either is accredited by the ~~American osteopathic association~~ *AOA* or conforms to the ~~minimum~~ education standards established by the ~~council on medical education of the American medical association~~ *LCME or the world health organization* or successors for medical schools *that meet standards established by the board by rule* ~~or is equivalent in the sound discretion of the board. The board may, on investigation of the education standards and facilities, approve any medical school, including foreign medical schools~~.

~~(3)~~*(5)* "Approved residency" means a residency training program ~~in a hospital~~ conforming to the ~~minimum~~ standards for residency training established by the ~~council on medical education of the American medical association~~ *ACGME* or successors or approved for residency training by the ~~American osteopathic association~~ *AOA*.

~~(4)~~*(6)* "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

~~(5)~~*(7)* "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(8) "ECP" means an emergency care provider licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic.

(9) "LCME" means the liaison committee on medical education.

~~(6)~~*(10)* "Medical assistant" means an unlicensed allied health care worker who functions under the supervision of a physician or podiatrist in a physician's or podiatrist's office and who performs administrative and clinical tasks.

~~(7)~~*(11)* "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

~~(8)~~*(12)* "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities*, including electronic and technological means such as telemedicine*. If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

(13) (a) "Telemedicine" means the practice of medicine using interactive electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine typically involves the application of secure videoconferencing or store-and-forward technology, as defined in 33-22-138.

(b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission."

Section 3. Section 37-3-103, MCA, is amended to read:

"37-3-103. Exemptions from licensing requirements. (1) This chapter does not prohibit or require a license with respect to any of the following acts:

(a) the gratuitous rendering of services in cases of emergency or catastrophe;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if the physician has any established or regularly used hospital connections in this state or maintains or is provided with, for the physician's regular use, an office or other place for rendering the services, the physician must possess a license to practice medicine in this state.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state;

(d) the practice of podiatry under the conditions and limitations defined by the laws of this state;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state;

(f) the practice of chiropractic under the conditions and limitations defined by the laws of this state;

(g) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;

(h) the practice of medicine by a physician licensed in another state and employed by the federal government;

(i) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the conditions and limitations defined by law;

(j) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter~~. The board may require a resident physician to be licensed if the physician otherwise engages in the practice of medicine in the state of Montana.~~*;*

(k) the rendering of services by a ~~physical therapist,~~ *surgical or medical* technician~~,~~ *or* medical assistant, as provided in 37-3-104, ~~or other paramedical specialist~~ under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of ~~a paramedical specialist~~ *the individuals listed in this subsection (1)(k)*;

(l) the rendering of services by a physician assistant in accordance with Title 37, chapter 20;

(m) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, ~~and~~ *including physical therapists and other licensees* not specifically designated, under the conditions and limitations defined by law;

(n) the execution of a death sentence pursuant to 46-19-103;

(o) the practice of direct-entry midwifery. For the purpose of this section, the practice of direct-entry midwifery means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period. Except as authorized in 37-27-302, a direct-entry midwife may not dispense or administer a prescription drug, as those terms are defined in 37-7-101.

(p) the use of an automated external defibrillator pursuant to Title 50, chapter 6, part 5.

(2) Licensees referred to in subsection (1) who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D.", "D.O.", or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

Section 4. Section 37-3-201, MCA, is amended to read:

"37-3-201. Organization. (1) (a) The board shall~~, at the first meeting each year,~~ elect from among its members a president, vice-president, and secretary.

(b) The board shall adopt a seal on which appear the words "The Board of Medical Examiners of Montana" and "Official Seal". ~~The board shall authenticate acts, rules, orders, and licenses by applying the seal.~~

(2) The board shall establish a screening panel for disciplinary matters as provided for in 37-1-307 ~~and shall authorize the screening panel to oversee any rehabilitation program established pursuant to 37-3-203~~."

Section 5. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) adopt rules necessary or proper to carry out *the requirements in Title 37, chapter 3,* parts 1 through ~~3 of this chapter~~ *4, as well as chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively*. The rules must be fair, impartial, and nondiscriminatory.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through ~~3~~ *4 and 8* of this chapter *as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in* ~~and~~ the

prosecution of persons, firms, associations, or corporations charged with violations of ~~parts 1 through 3 of this chapter;~~ *the provisions listed in this subsection (1)(c).*

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August 1 of each year and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and ECPs from other states under the terms of a mutual recognition agreement."

Section 6. Section 37-3-204, MCA, is amended to read:

"37-3-204. Meetings. The board shall hold meetings for ~~examinations and for other~~ business properly before the board at least twice annually at times and

places set by the board. The president of the board may call special meetings that the president considers advisable or necessary."

Section 7. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive ~~secretary~~ *officer*. To perform services to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive ~~secretary~~ *officer*."

Section 8. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required — kinds of licenses. (1) Before being issued a license, an applicant may not engage in the practice of medicine in this state.

(2) The department may issue ~~four~~ *two* kinds of licenses under the board's seal, ~~which include~~ a physician's license~~, a specialized license, a temporary license, and a telemedicine license issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349~~ *and a resident license*. ~~The physician's license and the specialized license must be signed by the president, but the temporary license may be signed by any board member. The board shall decide which kind of license to issue.~~

(3) The board shall provide guidelines by administrative rule for the practice of telemedicine by physicians.

(4) A license issued by the board that has not expired prior to [the effective date of this act] remains valid until renewal unless the licensee is otherwise subject to disciplinary proceedings."

Section 9. Section 37-3-303, MCA, is amended to read:

"37-3-303. Practice authorized by physician's license. A physician's license authorizes the holder to perform one or more of the acts embraced in ~~37-3-102(8)~~ *37-3-102(12)* in a manner ~~reasonably~~ consistent with the holder's training, skill, and experience."

Section 10. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in ~~subsections (4) and (5), a person may not be granted~~ *subsection (2), the board shall grant* a physician's license to practice medicine in this state ~~unless the person~~ *to an applicant who*:

(a) is of good moral character as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has ~~successfully~~ completed an approved residency program ~~of at least 2 years~~ or, for an applicant who graduated from medical school prior to 2000, has had experience or training that ~~in the opinion of~~ the board *has determined* is at least the equivalent of ~~a 2-year~~ *an* approved residency program;

(d) has passed all of the steps of the United States medical licensing examination, the federation of state medical boards' federation licensing examination, or an examination offered by any of the following entities:

(i) the national board of medical examiners or its successors;

(ii) the national board of osteopathic medical examiners or its successors;

(iii) the medical council of Canada or its successors if the applicant is a graduate of a Canadian medical school approved by the medical council of Canada or its successor; or

(iv) the educational commission for foreign medical graduates or its successors if the applicant is a graduate of a foreign medical school outside of the United States and Canada;

~~(d)~~*(e)* has submitted a completed application *with the required nonrefundable fee*; and

~~(e)~~*(f)* is able to communicate~~, in the opinion of the board,~~ in the English language *as determined by the board*.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified*;*

(3) The board may by rule impose additional requirements for licensure to protect the health and safety of the public or to enter into a mutual recognition licensing agreement with another state.

(4) The board may adopt rules that provide conditions for short-term nondisciplinary licenses.

~~(3) A person may not be granted a temporary license to practice medicine in this state unless the person:~~

~~(a) is of good moral character as determined by the board;~~

~~(b) is a graduate of an approved medical school as defined in 37-3-102;~~

~~(c) has successfully completed an approved residency program of at least 2 years or, for an applicant who graduated from medical school prior to 2000, has had experience or training that in the opinion of the board is at least the equivalent of a 2-year approved residency program; and~~

~~(d) is able, in the opinion of the board, to communicate in the English language.~~

~~(4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:~~

~~(a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;~~

~~(b) is a resident in good standing with the Montana family practice residency program; and~~

~~(c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.~~

~~(5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:~~

~~(a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;~~

~~(b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;~~

~~(c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;~~

~~(d) makes application to the department on an approved form; and~~

~~(e) pays a fee set by the board, as provided in 37-3-308.~~"

Section 11. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure — ~~temporary~~ *resident* license. (1) The board may authorize the department to issue ~~to an applicant~~ a

~~temporary~~ *resident* license to practice medicine ~~on the basis of~~ *to an applicant who*:

~~(a) passing an examination prescribed by the board;~~

~~(b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or~~

~~(c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and~~

~~(d) being a graduate of an approved medical school who has completed 1 year of internship or the equivalent and being of good moral character and good conduct.~~

~~(2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.~~

~~(3) A temporary license may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary license subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary license to a person who has committed unprofessional conduct. The issuance of a temporary license does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary license. The board may, in the case of an applicant for a temporary license, require a written, oral, or practical examination of the applicant.~~

(a) is in good standing:

(i) in a Montana residency program and is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; or

(ii) with an approved residency and who, in the course of an approved rotation of the applicant's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; and

(b) submits an application to the department on an approved form and submits the fee set by the board, as provided in 37-3-308.

(2) A resident license may not be issued for a period that exceeds 1 year. A resident license may be renewed, at the board's discretion, for additional 1-year periods as long as the resident is in good standing in an approved residency program."

Section 12. Section 37-3-308, MCA, is amended to read:

"37-3-308. Application fee — further tax forbidden. (1) ~~An~~ *Each* applicant ~~for a license to practice medicine to be issued on the basis of an examination by the board shall pay an examination fee as set by the board. The board shall set the fee, and it shall be reasonable and commensurate with the~~

~~costs of the examination and related costs. Such examination fee shall be in addition to the application fee. All applicants, including applicants for a temporary license,~~ shall pay an initial application fee as prescribed by the board.

(2) A license tax may not be imposed upon physicians by a municipality or any other subdivision of the state."

Section 13. Section 37-3-312, MCA, is amended to read:

"37-3-312. Issuance of license. If the board determines that an applicant possesses the qualifications required by this chapter, the department shall issue a license to practice medicine~~, which shall be signed by the president or vice-president, attested by the secretary, and sealed with the seal of the board~~."

Section 14. Section 37-3-321, MCA, is amended to read:

"37-3-321. Refusal of license. If the board determines that an applicant for a license to practice medicine does not possess the qualifications or character required by this chapter or that the applicant has committed unprofessional conduct, ~~it shall refrain from authorizing the department to issue a~~ *the board may deny the* license. ~~The department shall mail to the applicant, at the applicant's last address of record with the department, written notification of the board's decision, together with notice of a time and place of a hearing before the board. If the applicant without cause fails to appear at the hearing or if after the hearing the board determines that the applicant is not entitled to a license, the board shall refuse to grant the license.~~"

Section 15. Section 37-3-323, MCA, is amended to read:

"37-3-323. Suspension of license — investigation. (1) The department may investigate whenever the department learns of a reason to suspect that a license applicant or a person having a license to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and has not later been lawfully declared competent, or has a condition that impairs the person's intellect or judgment to the extent that the condition incapacitates the person for the safe performance of professional duties;

(b) ~~has been guilty of~~ *has engaged in* unprofessional conduct;

(c) has practiced medicine with a suspended or revoked license;

(d) has had a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated the terms of probation.

(2) The investigation must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board *or the board's representative* if ~~it appears to be in~~ *the board considers that the evaluation is in* the best interests of the public ~~that this evaluation be secured~~. The board may examine and scrutinize the hospital records and reports of a licensee or license applicant as part of the examination, and copies must be released to the board on written request.

(3) If a person holding a license to practice medicine under this chapter is by a final order or adjudication of a court of competent jurisdiction adjudged to be mentally incompetent, to be addicted to the use of addictive substances, or to have been committed pursuant to 53-21-127, the person's license may be

suspended by the board. The suspension continues until the licensee is found or adjudged by the court to be restored to reason or cured or until the person is discharged as restored to reason or cured and the person's professional competence has been proved to the satisfaction of the board."

Section 16. Section 37-3-403, MCA, is amended to read:

"37-3-403. Report of prohibition or limitation on practice by hospital. ~~Each~~ *With the exception of the first two violations of hospital policies related to charts, medical records, or other policies not directly associated with the clinical care of a patient, each* hospital or health care facility that prohibits or limits the privilege of a physician to practice medicine within that facility shall report the action to the state board of medical examiners within 30 days after the action is taken. The report must include ~~the~~ *each* reason ~~or reasons~~ for the prohibition or limitation."

Section 17. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for licensing physician assistant. A person may not be licensed as a physician assistant in this state unless the person:

(1) is of good moral character;

(2) is a graduate of a physician assistant training program accredited by the accreditation review commission on education for the physician assistant or, if accreditation was granted before 2001, accredited by the American medical association's committee on allied health education and accreditation or the commission on accreditation of allied health education programs; *and*

(3) has taken and passed an examination administered by the national commission on the certification of physician assistants~~; and~~

~~(4) holds a current certificate from the national commission on the certification of physician assistants~~."

Section 18. Repealer. The following sections of the Montana Code Annotated are repealed:

37-3-304. Practice authorized by temporary license.
37-3-306. Physician's license — examination — reciprocity and endorsement.
37-3-311. Foreign medical graduate examination.
37-3-315. Qualifications for licensure — specialized license — suspension — practice authorized.
37-3-327. Subpoena — fees.
37-3-328. Failure to appear or testify.
37-3-341. Legislative findings.
37-3-342. Definition — scope of practice allowed by telemedicine license.
37-3-343. Practice of telemedicine prohibited without license — scope of practice limitations — violations and penalty.
37-3-344. Application for telemedicine license.
37-3-345. Qualifications for telemedicine license — basis for denial.
37-3-347. Reasons for denial of license — alternative route to licensed practice.
37-3-348. Discipline of physician with telemedicine license.
37-3-349. Consent to jurisdiction.
37-6-304. Designations on license — recording.

Section 19. Effective date. [This act] is effective July 1, 2015.

Approved March 30, 2015

CHAPTER NO. 155

[SB 88]

AN ACT ESTABLISHING CONSERVATION DISTRICT PROCUREMENT LAWS; PROVIDING FOR COMPETITIVE BIDDING AND EXEMPTIONS; LIMITING TERMS OF CONTRACTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, procurement laws governing conservation districts should be clarified and made as consistent as possible among the various conservation districts; and

WHEREAS, laws governing public procurement of services, materials, supplies, and construction contracts should be codified within the conservation district laws; and

WHEREAS, conservation district procurement procedures must provide for confidence in the public procurement process and foster effective, broad-based competition within the free enterprise system.

Be it enacted by the Legislature of the State of Montana:

Section 1. Power to enter and execute contracts. A conservation district is authorized to make contracts necessary to implement the applicable powers granted by this chapter and to provide for the manner of executing contracts.

Section 2. Service contracts. (1) Contracts for architectural, engineering, land surveying, auditing, accounting, or legal services that are estimated to:

(a) exceed the amount provided for in 18-8-212 may be entered into by publication of a request for qualifications pursuant to [section 4] and negotiation with the most qualified responder;

(b) not exceed the amount provided for in 18-8-212 may be by direct negotiations.

(2) Contracts in which the majority of the services to be rendered constitute services other than architectural, engineering, land surveying, auditing, accounting, or legal services must be awarded under the procedure provided for in subsection (3).

(3) Except as provided in subsection (1), contracts may be entered into as follows:

(a) When the total contract value is estimated to be less than $5,000, a procurement technique may be used that best meets the conservation district's needs.

(b) When the total contract value is estimated to be between $5,001 and $25,000, a limited solicitation procedure must be used by receiving a minimum of three written or oral quotations. The limited solicitation procedure must be documented.

(c) When the total contract value is estimated to be greater than $25,000, a request for proposal or invitation to bid pursuant to [section 4] must be used to select a contractor that best meets the conservation district's needs.

Section 3. Requirements for purchases or construction contracts. For contracts for the purchase of vehicles, machinery, equipment, materials, or supplies or for construction, repair, restoration, or maintenance under this chapter in excess of the limit provided in 7-5-2301, supervisors shall comply with the provisions of [section 4] and may:

(1) award the contract to the lowest responsible bidder;

(2) postpone awarding a contract;

(3) reject any or all bids; or

(4) readvertise the contract.

Section 4. Advertisements. (1) The advertisement for requests for bids, proposals, or qualifications must be published in a newspaper of general circulation that includes the conservation district.

(2) A second publication may not be made less than 5 days or more than 12 days before the opening of bids.

(3) A second publication may not be made less than 5 days or more than 12 days before the deadline for the submission of a request for proposals or a request for qualifications.

Section 5. Exemptions from advertising and bidding. (1) When immediate delivery of supplies, equipment, or services is required in an emergency, including but not limited to fire, flood, explosion, storm, earthquake, riot, or insurrection, the provisions of [sections 3 and 4] do not apply if:

(a) the supervisors act, by majority vote in an open meeting, in a manner that best meets the emergency and serves the public interest; and

(b) the emergency is declared and recorded in the minutes of the board of supervisors meeting.

(2) Supplies or services may be purchased without bid from government agencies if purchased at a substantial savings.

(3) Contracts may be entered into by direct negotiations for the purchase of vehicles, machinery, equipment, materials, or supplies or for construction, repair, restoration, or maintenance under Title 76, chapter 15, for which the cost is less than the limit provided in 7-5-2301.

(4) Vehicles, machinery, equipment, materials, or supplies may be rented if the rental results in a substantial savings over purchase.

Section 6. Terms and extensions. (1) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the conservation district by encouraging effective competition or otherwise promoting economies in conservation district procurement.

(2) A contract may not be made for a period of more than 7 years.

(3) A contract may be extended or renewed if:

(a) the terms of the extension or renewal, if any, are included in the solicitation;

(b) funds are available for the first fiscal period at the time of the agreement; and

(c) the total contract period, including any extension or renewal, does not exceed 7 years.

(4) Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(5) If funds are not available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

Section 7. Division of contracts prohibited. Contracts may not be divided or projects split to circumvent the provisions of this part.

Section 8. Cooperative purchasing contracts. A conservation district may, in cooperation with one or more other conservation districts, conduct cooperative purchasing as defined in 18-4-401 for the procurement of supplies or services.

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 76, chapter 15, and the provisions of Title 76, chapter 15, apply to [sections 1 through 8].

Section 11. Effective date. [This act] is effective July 1, 2015.

Approved March 30, 2015

CHAPTER NO. 156

[SB 89]

AN ACT REQUIRING SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES TO FILE BUSINESS DISCLOSURE STATEMENTS; AND AMENDING SECTION 2-2-106, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-2-106, MCA, is amended to read:

"2-2-106. Disclosure. (1) (a) Prior to December 15 of each even-numbered year, each state officer*,* ~~or~~ holdover senator*, supreme court justice, and district court judge* shall file with the commissioner of political practices a business disclosure statement on a form provided by the commissioner. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

(b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time that the candidate files for office, file a business disclosure statement with the commissioner of political practices on a form provided by the commissioner.

(c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is required to file the business disclosure statement at the earlier of the time of submission of the person's name for confirmation or the assumption of the office.

(2) The statement must provide the following information:

(a) the name, address, and type of business of the individual;

(b) each present or past employing entity from which benefits, including retirement benefits, are currently received by the individual;

(c) each business, firm, corporation, partnership, and other business or professional entity or trust in which the individual holds an interest;

(d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or director, regardless of whether or not the entity is organized for profit; and

(e) all real property, other than a personal residence, in which the individual holds an interest. Real property may be described by general description.

(3) An individual may not assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

(4) The commissioner of political practices shall make the business disclosure statements available to any individual upon request."

Approved March 30, 2015

CHAPTER NO. 157

[HB 87]

AN ACT REVISING THE CALCULATION OF AVERAGE NUMBER BELONGING BY ELIMINATING THE REQUIREMENT FOR A COUNT OF PUPILS ON THE FIRST MONDAY OF DECEMBER; CLARIFYING THAT PART-TIME PUPILS ARE INCLUDED IN ANB CALCULATIONS; AMENDING SECTION 20-9-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) — 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled ~~full-time~~ pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils ~~on the first Monday in December of the prior school fiscal year and to a count of regularly enrolled pupils~~ on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by ~~three~~ *two*; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled~~, full-time~~ pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled~~, full-time~~ pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled~~, full-time~~ pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled~~, full-time~~ pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads,

mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled~~, full-time~~ pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) when a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled~~, full-time~~ pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled~~, full-time~~ pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (13)(a) and then combined.

(14) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (14)(a) by three."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to school budgets for school years beginning on or after July 1, 2015.

Approved April 1, 2015

CHAPTER NO. 158

[HB 183]

AN ACT REQUIRING THAT CERTAIN PARKS THAT ARE WHOLLY SURROUNDED BY PROPERTY BEING OR ALREADY ANNEXED BY A MUNICIPALITY BE INCLUDED IN THE ANNEXATION; AND AMENDING SECTION 7-2-4211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-2-4211, MCA, is amended to read:

"7-2-4211. Inclusion of roads, ~~and~~ rights-of-way*, and parks* in annexation. In all instances of annexation allowed under parts 42 through 47 of this chapter, the municipality shall include*:*

(1) parks created pursuant to Title 76, chapter 3, except for county-owned parks, that are wholly surrounded by other property being or already annexed; and

(2) the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed."

Approved April 1, 2015

CHAPTER NO. 159

[HB 197]

AN ACT PROVIDING FOR AN ENHANCED SENTENCE FOR A PERSON CONVICTED OF A FORCIBLE FELONY AGAINST A PREGNANT WOMAN.

Be it enacted by the Legislature of the State of Montana:

Section 1. Additional sentence for forcible felony against pregnant woman. (1) An offender who is convicted of committing a forcible felony, as defined in 45-2-101, against a pregnant woman and who, at the time of the offense, knew or should have known that the woman was pregnant shall, in addition to the punishment provided for commission of the offense, be sentenced to a term of imprisonment in a state prison of not less than 2 years or more than 20 years, except as provided in 46-18-222.

(2) An additional sentence imposed pursuant to this section must be imposed pursuant to the requirements of 46-1-401 and must run consecutively to the sentence imposed for the offense, except as provided in 46-18-222.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

Approved April 1, 2015

CHAPTER NO. 160

[HB 289]

AN ACT REVISING ZONING REQUIREMENTS FOR TARGETED ECONOMIC DEVELOPMENT DISTRICTS; ALLOWING PROVISIONS ADOPTED THROUGH ZONING BY PETITION TO FULFILL THE ZONING REQUIREMENTS FOR CREATION OF A TARGETED ECONOMIC DEVELOPMENT DISTRICT; AND AMENDING SECTION 7-15-4279, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-15-4279, MCA, is amended to read:

"7-15-4279. Targeted economic development districts. (1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned*:* ~~for use in accordance with the area growth policy, as defined in 76-1-103;~~

(i) for uses by a local government under Title 76, chapter 2, part 2 or 3, in accordance with the area growth policy, as defined in 76-1-103; or

(ii) if a county has not adopted a growth policy, then for uses in accordance with the development pattern and zoning regulations or the development district adopted under Title 76, chapter 2, part 1;

(c) may not comprise any property included within an existing tax increment financing district;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under 7-15-4280;

(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) The local government may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4294 for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive development plan required in subsection (2)(e).

(4) For the purposes of 7-15-4277 through 7-15-4280:

(a) "secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce;

(b) "secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within Montana that, through

the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth."

Approved April 1, 2015

CHAPTER NO. 161

[HB 382]

AN ACT REVISING TERMINOLOGY RELATING TO MENTAL ILLNESS; REPLACING REFERENCES TO "MENTAL DISEASE OR DEFECT", "MENTAL DEFECT", AND SIMILAR PHRASES WITH REFERENCES TO "MENTAL DISEASE OR DISORDER", "MENTAL DISORDER", AND SIMILAR PHRASES; AMENDING SECTIONS 37-3-103, 37-60-303, 39-3-406, 39-30-103, 44-5-103, 45-2-101, 45-2-211, 45-5-501, 45-8-321, 46-14-101, 46-14-102, 46-14-103, 46-14-202, 46-14-204, 46-14-206, 46-14-214, 46-14-217, 46-14-301, 46-14-302, 46-14-304, 46-14-311, 46-14-312, 46-15-323, 53-1-104, 80-20-102, AND 81-30-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-3-103, MCA, is amended to read:

"37-3-103. Exemptions from licensing requirements. (1) This chapter does not prohibit or require a license with respect to any of the following acts:

(a) the gratuitous rendering of services in cases of emergency or catastrophe;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if the physician has any established or regularly used hospital connections in this state or maintains or is provided with, for the physician's regular use, an office or other place for rendering the services, the physician must possess a license to practice medicine in this state.

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state;

(d) the practice of podiatry under the conditions and limitations defined by the laws of this state;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state;

(f) the practice of chiropractic under the conditions and limitations defined by the laws of this state;

(g) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;

(h) the practice of medicine by a physician licensed in another state and employed by the federal government;

(i) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the conditions and limitations defined by law;

(j) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter. The board may require a resident physician to be licensed if the physician otherwise engages in the practice of medicine in the state of Montana.

(k) the rendering of services by a physical therapist, technician, medical assistant, as provided in 37-3-104, or other paramedical specialist under the

appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of a paramedical specialist;

(l) the rendering of services by a physician assistant in accordance with Title 37, chapter 20;

(m) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, and not specifically designated, under the conditions and limitations defined by law;

(n) the execution of a death sentence pursuant to 46-19-103;

(o) the practice of direct-entry midwifery. For the purpose of this section, the practice of direct-entry midwifery means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period. Except as authorized in 37-27-302, a direct-entry midwife may not dispense or administer a prescription drug, as those terms are defined in 37-7-101.

(p) the use of an automated external defibrillator pursuant to Title 50, chapter 6, part 5.

(2) Licensees referred to in subsection (1) who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D.", "D.O.", or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or *disorder of* mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

Section 2. Section 37-60-303, MCA, is amended to read:

"37-60-303. License or registration qualifications. (1) Except as provided in subsection (7)(a), an applicant for licensure under this chapter or an applicant for registration as a process server under this chapter is subject to the provisions of this section and shall submit evidence that the applicant:

(a) is at least 18 years of age;

(b) is a citizen of the United States or a legal, permanent resident of the United States;

(c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;

(d) has not been judicially declared incompetent by reason of any mental ~~defect or~~ disease or *disorder or*, if so declared, has been fully restored;

(e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

(f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard, security alarm installer, or alarm response runner shall:

(a) complete the requirements of a training program certified by the board and provide, on a form prescribed by the department, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service; and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant for a license as a private security patrol officer or private investigator who will wear, carry, or possess a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)(a), the board shall require a background investigation of each applicant for licensure or registration under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board or, if doing business as a process server, must be registered by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant to the requirements of this part or, if doing business as a process server, must be registered by the board."

Section 3. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores, such as babysitting, mowing lawns, and cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) persons with disabilities engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) an individual employed in a bona fide executive, administrative, or professional capacity, as these terms are defined by regulations of the commissioner, a computer systems analyst, computer programmer, software engineer, network administrator, or other similarly skilled computer employee who earns not less than $27.63 an hour pursuant to 29 CFR 541.400 or 541.402, or an individual employed in an outside sales capacity pursuant to 29 CFR 541.500;

(k) an individual employed by the United States of America;

(l) resident managers employed in lodging establishments or assisted living facilities who, under the terms of their employment, live in the establishment or facility;

(m) a direct seller as defined in 26 U.S.C. 3508;

(n) a person placed as a participant in a public assistance program authorized by Title 53 into a work setting for the purpose of developing employment skills. The placement may be with either a public or private employer. The exclusion does not apply to an employment relationship formed in the work setting outside the scope of the employment skills activities authorized by Title 53.

(o) a person serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(p) an employee employed in domestic service employment to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act, 29 U.S.C. 213, when the person providing the service is employed directly by a family member or an individual who is a legal guardian.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States secretary of transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 31502;

(b) an employee of an employer subject to 49 U.S.C. 10501 and 49 U.S.C. 60501, the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles or implements to ultimate purchasers;

(e) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) a salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;

(g) an employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that the plan has the general purpose and effect of reducing hours worked by the employees to or below the maximum workweek applicable to them under 39-3-405;

(h) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not owned or operated for profit, that are not operated on a sharecrop basis, and that are used exclusively for supply and storing of water for agricultural purposes;

(i) an employee employed in agriculture by a farmer, notwithstanding other employment of the employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

(i) primarily employed during a workweek in agriculture by a farmer; and

(ii) paid for employment in connection with the livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(j) an employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm if no more than five employees are employed by the establishment;

(k) a driver employed by an employer engaged in the business of operating taxicabs;

(l) an employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as the employee and the employee's spouse reside in the facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000;

(m) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;

(n) an employee of a sheriff's office who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1);

(o) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(p) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or ~~defective~~ *disordered* who is working under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(q) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;

(r) an officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police under 7-32-4118;

(s) an employee of a department of public safety working under a work period established pursuant to 7-32-115;

(t) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, and if more than half of the employee's compensation for a period of not less than 1 month is derived from commissions on goods and services;

(u) a person employed as a guide, cook, camp tender, [outfitter's assistant,] or livestock handler by a licensed outfitter as defined in 37-47-101;

(v) an employee employed as a radio announcer, news editor, or chief engineer by an employer in a second- or third-class city or a town;

(w) an employee of the consolidated legislative branch as provided in 5-2-503;

(x) an employee of the state or its political subdivisions employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee was employed in a capacity other than the employee's regular occupation may be excluded from the calculation of hours to determine overtime compensation. (Bracketed language in subsection (2)(u) terminates August 31, 2015—sec. 11, Ch. 241, L. 2013.)"

Section 4. Section 39-30-103, MCA, is amended to read:

"39-30-103. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Eligible spouse" means the spouse of a person with a disability determined by the department of public health and human services to have a 100% disability and who is unable to use the employment preference because of the person's disability.

(2) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the ranks of the current employees of:

(i) a department, as defined in 2-15-102, for a position within the executive branch;

(ii) a legislative agency for a position within the legislative branch;

(iii) a judicial agency, such as the office of supreme court administrator, office of supreme court clerk, state law library, or similar office in a state district court for a position within the judicial branch;

(iv) a city or town for a municipal position, including a city or municipal court position; and

(v) a county for a county position, including a justice's court position.

(b) A personnel action limited to current employees of a specific public entity identified in this subsection (2), current employees in a reduction-in-force pool who have been laid off from a specific public entity identified in this subsection (2), or current participants in a federally authorized employment program is not an initial hiring.

(3) (a) "Mental impairment" means:

(i) a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability and requiring treatment similar to that required by intellectually disabled individuals; or

(ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term mental impairment does not include alcoholism or drug addiction and does not include any mental impairment~~, disease, or defect~~ *or mental disease or disorder* that has been asserted by the individual claiming the preference as a defense to any criminal charge.

(4) "Person with a disability" means:

(a) an individual certified by the department of public health and human services to have a physical or mental impairment that substantially limits one or more major life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to obtain, retain, or advance in employment; or

(b) any disabled veteran as defined in 39-29-101, except that the disabled veteran must be discharged under honorable conditions as defined in 39-29-101.

(5) "Position" means a position occupied by a permanent or seasonal employee as defined in 2-18-101 for the state or a position occupied by a similar permanent or seasonal employee with a public employer other than the state. However, the term does not include:

(a) a position occupied by a temporary employee as defined in 2-18-101 for the state or a similar temporary employee with a public employer other than the state;

(b) a state or local elected official;

(c) employment as an elected official's immediate secretary, legal adviser, court reporter, or administrative, legislative, or other immediate or first-line aide;

(d) appointment by an elected official to a body such as a board, commission, committee, or council;

(e) appointment by an elected official to a public office if the appointment is provided for by law;

(f) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local government;

(g) engagement as an independent contractor or employment by an independent contractor; or

(h) a position occupied by a student intern, as defined in 2-18-101.

(6) (a) "Public employer" means:

(i) any department, office, board, bureau, commission, agency, or other instrumentality of the executive, judicial, or legislative branch of the government of the state of Montana; and

(ii) any county, city, or town.

(b) The term does not include a school district, a vocational-technical program, a community college, the board of regents of higher education, the Montana university system, a special purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

(7) "Substantially equal qualifications" means the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

Section 5. Section 44-5-103, MCA, is amended to read:

"44-5-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Access" means the ability to read, change, copy, use, transfer, or disseminate criminal justice information maintained by criminal justice agencies.

(2) "Administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage, and dissemination of criminal justice information.

(3) "Confidential criminal justice information" means:

(a) criminal investigative information;

(b) criminal intelligence information;

(c) fingerprints and photographs;

(d) criminal justice information or records made confidential by law; and

(e) any other criminal justice information not clearly defined as public criminal justice information.

(4) (a) "Criminal history record information" means information about individuals collected by criminal justice agencies consisting of identifiable descriptions and notations of arrests; detentions; the filing of complaints, indictments, or informations and dispositions arising from complaints, indictments, or informations; sentences; correctional status; and release. It includes identification information, such as fingerprint records or photographs, unless the information is obtained for purposes other than the administration of criminal justice.

(b) Criminal history record information does not include:

(i) records of traffic offenses maintained by the department of justice; or

(ii) court records.

(5) (a) "Criminal intelligence information" means information associated with an identifiable individual, group, organization, or event compiled by a criminal justice agency:

(i) in the course of conducting an investigation relating to a major criminal conspiracy, projecting potential criminal operation, or producing an estimate of future major criminal activities; or

(ii) in relation to the reliability of information, including information derived from reports of informants or investigators or from any type of surveillance.

(b) Criminal intelligence information does not include information relating to political surveillance or criminal investigative information.

(6) (a) "Criminal investigative information" means information associated with an individual, group, organization, or event compiled by a criminal justice agency in the course of conducting an investigation of a crime or crimes. It includes information about a crime or crimes derived from reports of informants or investigators or from any type of surveillance.

(b) The term does not include criminal intelligence information.

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

(b) any federal, state, or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice, including a governmental fire agency organized under Title 7, chapter 33, or a fire marshal who conducts criminal investigations of fires;

(c) any local government agency not included under subsection (7)(b) that performs as its principal function the administration of criminal justice pursuant to an ordinance or local executive order; or

(d) any agency of a foreign nation that has been designated by that nation's law or chief executive officer to perform as its principal function the administration of criminal justice and that has been approved for the receipt of criminal justice information by the Montana attorney general, who may consult with the United States department of justice.

(8) (a) "Criminal justice information" means information relating to criminal justice collected, processed, or preserved by a criminal justice agency.

(b) The term does not include the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a system, automated or manual, operated by foreign, federal, regional, state, or local governments or governmental organizations for collecting, processing, preserving, or disseminating criminal justice information. It includes equipment, facilities, procedures, and agreements.

(10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have terminated and describing the nature of the termination or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or collateral review of criminal proceedings, or executive clemency. Criminal proceedings have terminated if a decision has been made not to bring charges or if criminal proceedings have been concluded, abandoned, or indefinitely postponed.

(b) Particular dispositions include but are not limited to:

(i) conviction at trial or on a plea of guilty;

(ii) acquittal;

(iii) acquittal by reason of mental disease or ~~defect~~ *disorder*;

(iv) acquittal by reason of mental incompetence;

(v) the sentence imposed, including all conditions attached to the sentence by the sentencing judge;

(vi) deferred imposition of sentence with any conditions of deferral;

(vii) nolle prosequi;

(viii) a nolo contendere plea;

(ix) deferred prosecution or diversion;

(x) bond forfeiture;

(xi) death;

(xii) release as a result of a successful collateral attack;

(xiii) dismissal of criminal proceedings by the court with or without the commencement of a civil action for determination of mental incompetence or mental illness;

(xiv) a finding of civil incompetence or mental illness;

(xv) exercise of executive clemency;

(xvi) correctional placement on probation or parole or release; or

(xvii) revocation of probation or parole.

(c) A single arrest of an individual may result in more than one disposition.

(11) "Dissemination" means the communication or transfer of criminal justice information to individuals or agencies other than the criminal justice agency that maintains the information. It includes confirmation of the existence or nonexistence of criminal justice information.

(12) "Fingerprints" means the recorded friction ridge skin of the fingers, palms, or soles of the feet.

(13) "Public criminal justice information" means:

(a) information made public by law;

(b) information of court records and proceedings;

(c) information of convictions, deferred sentences, and deferred prosecutions;

(d) information of postconviction proceedings and status;

(e) information originated by a criminal justice agency, including:

(i) initial offense reports;

(ii) initial arrest records;

(iii) bail records; and

(iv) daily jail occupancy rosters;

(f) information considered necessary by a criminal justice agency to secure public assistance in the apprehension of a suspect; or

(g) statistical information.

(14) "State repository" means the recordkeeping systems maintained by the department of justice pursuant to 44-2-201 in which criminal history record information is collected, processed, preserved, and disseminated.

(15) "Statistical information" means data derived from records in which individuals are not identified or identification is deleted and from which neither individual identity nor any other unique characteristic that could identify an individual is ascertainable."

Section 6. Section 45-2-101, MCA, is amended to read:

"45-2-101. General definitions. Unless otherwise specified in the statute, all words must be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) "Another" means a person or persons other than the offender.

(4) (a) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested.

(b) Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.

(6) "Child" or "children" means any individual or individuals under 18 years of age, unless a different age is specified.

(7) "Cohabit" means to live together under the representation of being married.

(8) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or that affects the same person or the same persons or the property of the same person or persons.

(9) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network.

(10) "Computer network" means the interconnection of communication systems between computers or computers and remote terminals.

(11) "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer system and causes it to perform specified functions.

(12) "Computer services" include but are not limited to computer time, data processing, and storage functions.

(13) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(14) "Computer system" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment.

(15) "Conduct" means an act or series of acts and the accompanying mental state.

(16) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the

incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

(18) "Deception" means knowingly to:

(a) create or confirm in another an impression that is false and that the offender does not believe to be true;

(b) fail to correct a false impression that the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(19) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(20) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(21) "Deviate sexual relations" means any form of sexual intercourse with an animal.

(22) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.

(24) "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual.

(25) A "frisk" is a search by an external patting of a person's clothing.

(26) "Government" includes a branch, subdivision, or agency of the government of the state or a locality within it.

(27) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is interested.

(28) A "house of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(29) "Human being" means a person who has been born and is alive.

(30) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention.

(31) "Inmate" means a person who is confined in a correctional institution.

(32) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32, and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume.

(b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

(33) An "involuntary act" means an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(34) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective juror.

(35) "Knowingly"—a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning.

(36) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter 6.

(37) "Medicaid agency" has the meaning in 53-6-155.

(38) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(39) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic, or other form:

(i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or

(ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program.

(b) The term includes related documents submitted as a part of or in support of the claim.

(40) "Mentally ~~defective~~ *disordered*" means that a person suffers from a mental disease or ~~defect~~ *disorder* that renders the person incapable of appreciating the nature of the person's own conduct.

(41) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or controlling the person's own conduct as a result of the influence of an intoxicating substance.

(42) "Misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less.

(43) "Negligently"—a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning.

(44) "Nolo contendere" means a plea in which the defendant does not contest the charge or charges against the defendant and neither admits nor denies the charge or charges.

(45) "Obtain" means:

(a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance of the labor or service.

(46) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(47) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(48) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(49) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors.

(50) (a) "Official detention" means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society.

(b) Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(51) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a judicial, an administrative, or another governmental agency or official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding.

(52) "Other state" means a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(53) "Owner" means a person other than the offender who has possession of or other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(54) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility.

(55) "Peace officer" means a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority.

(56) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(57) "Person" includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of government.

(58) "Physically helpless" means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(59) "Possession" is the knowing control of anything for a sufficient time to be able to terminate control.

(60) "Premises" includes any type of structure or building and real property.

(61) "Property" means a tangible or intangible thing of value. Property includes but is not limited to:

(a) real estate;

(b) money;

(c) commercial instruments;

(d) admission or transportation tickets;

(e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;

(f) things growing on, affixed to, or found on land and things that are part of or affixed to a building;

(g) electricity, gas, and water;

(h) birds, animals, and fish that ordinarily are kept in a state of confinement;

(i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

(j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and

(k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any

other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof.

(62) "Property of another" means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender may have an interest in the property.

(63) "Public place" means a place to which the public or a substantial group has access.

(64) (a) "Public servant" means an officer or employee of government, including but not limited to legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator, executor, guardian, or court-appointed fiduciary. The term "public servant" includes one who has been elected or designated to become a public servant.

(b) The term does not include witnesses.

(65) "Purposely"—a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same meaning.

(66) (a) "Serious bodily injury" means bodily injury that:

(i) creates a substantial risk of death;

(ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or

(iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

(b) The term includes serious mental illness or impairment.

(67) "Sexual contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

(a) cause bodily injury to or humiliate, harass, or degrade another; or

(b) arouse or gratify the sexual response or desire of either party.

(68) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

(i) cause bodily injury or humiliate, harass, or degrade; or

(ii) arouse or gratify the sexual response or desire of either party.

(b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

(69) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to commit an offense.

(70) "State" or "this state" means the state of Montana, all the land and water in respect to which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water.

(71) "Statute" means an act of the legislature of this state.

(72) "Stolen property" means property over which control has been obtained by theft.

(73) A "stop" is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer's presence.

(74) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it.

(75) "Telephone" means any type of telephone, including but not limited to a corded, uncorded, cellular, or satellite telephone.

(76) "Threat" means a menace, however communicated, to:

(a) inflict physical harm on the person threatened or any other person or on property;

(b) subject any person to physical confinement or restraint;

(c) commit a criminal offense;

(d) accuse a person of a criminal offense;

(e) expose a person to hatred, contempt, or ridicule;

(f) harm the credit or business repute of a person;

(g) reveal information sought to be concealed by the person threatened;

(h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding;

(i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or

(j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(77) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than $1,500 by the standards set forth in subsection (77)(a), its value is considered to be an amount less than $1,500.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(78) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment, with provision for transport of an operator.

(79) "Weapon" means an instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

(80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation by a grand jury, or in a criminal action, prosecution, or proceeding."

Section 7. Section 45-2-211, MCA, is amended to read:

"45-2-211. Consent as a defense. (1) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense.

(2) Consent is ineffective if:

(a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

(b) it is given by a person who by reason of youth, mental disease or ~~defect~~ *disorder*, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

(c) it is induced by force, duress, or deception; or

(d) it is against public policy to permit the conduct or the resulting harm, even though consented to."

Section 8. Section 45-5-501, MCA, is amended to read:

"45-5-501. Definitions. (1) (a) As used in 45-5-503, the term "without consent" means:

(i) the victim is compelled to submit by force against the victim or another; or

(ii) subject to subsections (1)(b) and (1)(c), the victim is incapable of consent because the victim is:

(A) mentally ~~defective~~ *disordered* or incapacitated;

(B) physically helpless;

(C) overcome by deception, coercion, or surprise;

(D) less than 16 years old;

(E) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(F) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(I) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(II) is an employee, contractor, or volunteer of the youth care facility; or

(G) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(I) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(II) is an employee, contractor, or volunteer of the facility or community-based service.

(b) Subsection (1)(a)(ii)(E) does not apply if the individuals are married to each other and one of the individuals involved is on probation or parole and the other individual is a probation or parole officer of a supervising authority.

(c) Subsections (1)(a)(ii)(F) and (1)(a)(ii)(G) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(2) As used in subsection (1), the term "force" means:

(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

(3) As used in 45-5-502 and this section, the following definitions apply:

(a) "Parole":

(i) in the case of an adult offender, has the meaning provided in 46-1-202; and

(ii) in the case of a juvenile offender, means supervision of a youth released from a state youth correctional facility, as defined in 41-5-103, to the supervision of the department of corrections.

(b) "Probation" means:

(i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and

(ii) in the case of a juvenile offender, supervision of the juvenile by a youth court pursuant to Title 41, chapter 5.

(c) "Supervising authority" includes a court, including a youth court, a county, or the department of corrections."

Section 9. Section 45-8-321, MCA, is amended to read:

"45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant:

(a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

(b) has been charged and is awaiting judgment in any state of a state or federal crime that is punishable by incarceration for 1 year or more;

(c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:

(i) a crime punishable by more than 1 year of incarceration; or

(ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide,

serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent;

(d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction;

(e) has a warrant of any state or the federal government out for the applicant's arrest;

(f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision;

(g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally ~~defective~~ *disordered*, or mentally disabled and is still subject to a disposition order of that court; or

(h) was dishonorably discharged from the United States armed forces.

(2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally ~~defective~~ *disordered*, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon which the denial is based.

(3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required by the sheriff to demonstrate familiarity with a firearm by:

(a) completion of a hunter education or safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state;

(b) completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association;

(c) completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency;

(d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

(e) evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns.

(4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other document that attests to completion of the course and can be verified through contact with the entity or instructor that conducted the course creates a presumption that the applicant has completed a course described in subsection (3).

(5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's

passing, to the satisfaction of the sheriff or of any person or entity to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm.

(6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to issuance of a concealed weapons permit if otherwise eligible."

Section 10. Section 46-14-101, MCA, is amended to read:

"46-14-101. Mental disease or ~~defect~~ *disorder* — purpose — definition. (1) The purpose of this section is to provide a legal standard of mental disease or ~~defect~~ *disorder* under which the information gained from examination of the defendant, pursuant to part 2 of this chapter, regarding a defendant's mental condition is applied. The court shall apply this standard:

(a) in any determination regarding:

(i) a defendant's fitness to proceed and stand trial;

(ii) whether the defendant had, at the time that the offense was committed, a particular state of mind that is an essential element of the offense; and

(b) at sentencing when a defendant has been convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims that at the time of commission of the offense for which the defendant was convicted, the defendant was unable to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirements of the law.

(2) (a) As used in this chapter, "mental disease or ~~defect~~ *disorder*" means an organic, mental, or emotional disorder that is manifested by a substantial disturbance in behavior, feeling, thinking, or judgment to such an extent that the person requires care, treatment, and rehabilitation.

(b) The term "mental disease or ~~defect~~ *disorder*" does not include but may co-occur with one or more of the following:

(i) an abnormality manifested only by repeated criminal or other antisocial behavior;

(ii) a developmental disability, as defined in 53-20-102;

(iii) drug or alcohol intoxication; or

(iv) drug or alcohol addiction."

Section 11. Section 46-14-102, MCA, is amended to read:

"46-14-102. Evidence of mental disease or ~~defect~~ *disorder* or developmental disability admissible to prove state of mind. Evidence that the defendant suffered from a mental disease or ~~defect~~ *disorder* or developmental disability is admissible to prove that the defendant did or did not have a state of mind that is an element of the offense."

Section 12. Section 46-14-103, MCA, is amended to read:

"46-14-103. Mental disease or ~~defect~~ *disorder* or developmental disability excluding fitness to proceed. A person who, as a result of mental disease or ~~defect~~ *disorder* or developmental disability, is unable to understand the proceedings against the person or to assist in the person's own defense may not be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures."

Section 13. Section 46-14-202, MCA, is amended to read:

"46-14-202. Examination of defendant. (1) If the defendant or the defendant's counsel files a written motion requesting an examination or if the

issue of the defendant's fitness to proceed is raised by the court, prosecution, or defense counsel, the court shall appoint at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse, who may be or include the superintendent, to examine and report upon the defendant's mental condition.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding 60 days or a longer period that the court determines to be necessary for the purpose and may direct that a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination, any method may be employed that is accepted by the medical or psychological profession for the examination of those alleged to be suffering from mental disease or ~~defect~~ *disorder*.

(4) (a) The costs incurred for an examination ordered under subsection (2) must be paid as follows:

(i) if the issue of the defendant's fitness to proceed was raised by the court or the examination was requested by the prosecution, the cost of the examination and other associated expenses must be paid by the court or, in district court proceedings, by the office of court administrator, except as provided in subsection (4)(a)(iv);

(ii) if the examination was requested by the defendant or the defendant's counsel, the cost of the examination and other associated expenses must be paid by the defendant or, if the defendant was represented by an attorney pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided by subsection (4)(a)(iv);

(iii) if the examination was jointly requested by the prosecution and defense counsel or the need for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other associated expenses must be divided and paid equally by the court or, in district court proceedings, by the office of court administrator, and the defendant or, if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided in subsection (4)(a)(iv);

(iv) any costs for an examination performed by an employee of the department of public health and human services, any other associated expenses at a facility of the department of public health and human services, and any other associated expenses for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator or the office of state public defender.

(b) For purposes of this subsection (4), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility:

(i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by whom the defendant is detained;

(ii) housing expenses of the facility where the examination is performed; and

(iii) medical costs, including medical and dental care, including costs of medication."

Section 14. Section 46-14-204, MCA, is amended to read:

"46-14-204. Prosecution's right to examination. (1) When the defense discloses the report of the examination to the prosecution or files a notice of the intention to rely on a defense of mental disease or ~~defect~~ *disorder*, the prosecution is entitled to have the defendant examined by a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse.

(2) The report of the examination must be disclosed to the defense within 10 days of its receipt by the prosecution."

Section 15. Section 46-14-206, MCA, is amended to read:

"46-14-206. Report of examination. (1) A report of the examination must include the following:

(a) a description of the nature of the examination;

(b) a diagnosis of the mental condition of the defendant, including an opinion as to whether the defendant suffers from a mental disorder, as defined in 53-21-102, and may require commitment or is seriously developmentally disabled, as defined in 53-20-102;

(c) if the defendant suffers from a mental disease or ~~defect~~ *disorder* or developmental disability, an opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense;

(d) when directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is an element of the offense charged; and

(e) when directed by the court, an opinion as to the capacity of the defendant, because of a mental disease or ~~defect~~ *disorder* or developmental disability, to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirement of the law.

(2) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must state that fact and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of the mental disease or ~~defect~~ *disorder* or developmental disability."

Section 16. Section 46-14-214, MCA, is amended to read:

"46-14-214. Form of verdict and judgment — determination of maximum period of confinement — victim findings. (1) When the defendant is found not guilty of the charged offense or offenses or any lesser included offense for the reason that due to a mental disease or ~~defect~~ *disorder* the defendant did not have a particular state of mind that is an essential element of the offense charged, the verdict and the judgment must state that reason.

(2) The court shall determine on the record the charged offense or offenses or any lesser included offense for which the person otherwise may have been convicted and the maximum sentence that the defendant may have received. If there is more than one offense charged, the maximum sentence is limited to the longest single sentence from all charged offenses.

(3) The court shall make specific findings regarding whether there is a victim of the crime for which the defendant is found not guilty and, if so, whether

the victim wishes to be notified of any conditional release, discharge, or escape of the defendant."

Section 17. Section 46-14-217, MCA, is amended to read:

"46-14-217. Admissibility of statements made during examination or treatment. A statement made for the purposes of psychiatric or psychological examination or treatment provided for in this section by a person subjected to examination or treatment is not admissible in evidence against the person at trial on any issue other than that of the person's mental condition. It is admissible on the issue of the person's mental condition, whether or not it would otherwise be considered a privileged communication, only when and after the defendant presents evidence that due to a mental disease or ~~defect~~ *disorder* the defendant did not have a particular state of mind that is an element of the offense charged."

Section 18. Section 46-14-301, MCA, is amended to read:

"46-14-301. Commitment upon finding of not guilty by reason of lack of mental state — hearing to determine release or discharge — limitation on confinement. (1) When a defendant is found not guilty for the reason that due to a mental disease or ~~defect~~ *disorder* the defendant could not have a particular state of mind that is an essential element of the offense charged, the court shall order a predisposition investigation in accordance with 46-18-112 and 46-18-113, which must include an investigation of the present mental condition of the defendant. If the trial was by jury, the court shall hold a hearing to determine the appropriate disposition of the defendant. If the trial was by the court, the court may hold a hearing to obtain any additional testimony it considers necessary to determine the appropriate disposition of the defendant. In either case, the testimony and evidence presented at the trial must be considered by the court in making its determination.

(2) The court shall evaluate the nature of the offense with which the defendant was charged. If the offense:

(a) involved a substantial risk of serious bodily injury or death, actual bodily injury, or substantial property damage, the court may find that the defendant suffers from a mental disease or ~~defect~~ *disorder* that renders the defendant a danger to the defendant or others. If the court finds that the defendant presents a danger to the defendant or others, the defendant may be committed to the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility for custody, care, and treatment. However, if the court finds that the defendant is seriously developmentally disabled, as defined in 53-20-102, the prosecutor shall petition the court in the manner provided in Title 53, chapter 20.

(b) charged did not involve a substantial risk of serious bodily injury or death, actual bodily injury, or substantial property damage, the court shall release the defendant. The prosecutor may petition the court in the manner provided in Title 53, chapter 20 or 21.

(3) A person committed to the custody of the director of the department of public health and human services must have a hearing within 180 days of confinement to determine the person's present mental condition and whether the person must be discharged or released or whether the commitment may be extended because the person continues to suffer from a mental disease or ~~defect~~ *disorder* that renders the person a danger to the person or others. The hearing must be conducted by the court that ordered the commitment unless that court transfers jurisdiction to the district court in the district in which the person has been placed. The court shall cause notice of the hearing to be served upon the

person, the person's counsel, the prosecutor, and the court that originally ordered the commitment. The hearing is a civil proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may not be safely released because the person continues to suffer from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of:

(a) serious bodily injury or death to the person or others;

(b) an imminent threat of physical injury to the person or others; or

(c) substantial property damage.

(4) According to the determination of the court upon the hearing, the person must be discharged or released on conditions the court determines to be necessary or must be committed to the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility for custody, care, and treatment. The period of commitment may not exceed the maximum sentence determined under 46-14-214(2). At the time that the period of the maximum sentence expires, involuntary civil commitment proceedings may be instituted in the manner provided in Title 53, chapter 21.

(5) A professional person shall review the status of the person each year. At the time of the annual review, the director of the department of public health and human services or the person or the representative of the person may petition for discharge or release of the person. Upon request for a hearing, a hearing must be held pursuant to the provisions of subsection (3)."

Section 19. Section 46-14-302, MCA, is amended to read:

"46-14-302. Discharge or release upon motion of director. (1) If the director of the department of public health and human services believes that a person committed to the director's custody under 46-14-301 may be discharged or released on condition without danger to the person or others because the person no longer suffers from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of serious bodily injury or death to the person or others, a substantial risk of an imminent threat of physical injury to the person or others, or a substantial risk of substantial property damage, the director shall make application for the discharge or release of the person in a report to the district court by which the person was committed unless that court transfers jurisdiction to the court in the district in which the person has been placed and shall send a copy of the application and report to the prosecutor of the county from which the person was committed.

(2) Either the director of the department of public health and human services or the person may also make application to the court for discharge or release as part of the person's annual treatment review.

(3) The court shall then appoint at least one person who is a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse to examine the person and to report as to the person's mental condition within 60 days or a longer period that the court determines to be necessary for the purpose. To facilitate the examinations and the proceedings on the examinations, the court may have the person confined in any mental health facility located near the place where the court sits that may be designated by the director of the department of public health and human services as suitable for the temporary detention of persons suffering from mental disease or ~~defect~~ *disorder*.

(4) The committed person or the person's attorney may secure a professional person of the committed person's choice to examine the committed person and to testify at the hearing. If the person wishing to secure the testimony of a

professional person is unable to do so because of financial reasons, the court shall appoint an additional professional person to perform the examination. Whenever possible, the court shall allow the committed person or the person's attorney a reasonable choice of an available professional person qualified to perform the requested examination. The professional person must be compensated by the department of public health and human services.

(5) If the court is satisfied by the report filed under subsection (1) and the testimony of the reporting psychiatrist, licensed clinical psychologist, or advanced practice registered nurse that the committed person may be discharged or released on condition because the person no longer suffers from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of serious bodily injury or death to the person or others, a substantial risk of an imminent threat of physical injury to the person or others, or a substantial risk of substantial property damage, the court shall order the person's discharge.

(6) (a) If the court is not satisfied, it shall promptly order a hearing to determine whether the person may safely be discharged or released on the grounds that the person no longer suffers from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;

(ii) an imminent threat of physical injury to the person or others; or

(iii) substantial property damage.

(b) A hearing is considered a civil proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may not be safely discharged or released because the person continues to suffer from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;

(ii) an imminent threat of physical injury to the person or others; or

(iii) substantial property damage.

(c) According to the determination of the court upon the hearing, the committed person must then be discharged or released on conditions that the court determines to be necessary or must be recommitted to the custody of the director of the department of public health and human services, subject to discharge or release only in accordance with the procedures provided in 46-14-303 and this section."

Section 20. Section 46-14-304, MCA, is amended to read:

"46-14-304. Revocation of conditional release. (1) The court may order revocation of a person's conditional release if the court determines after hearing evidence that:

(a) the conditions of release have not been fulfilled; and

(b) based on the violations of the conditions and the person's past mental health history, there is a substantial likelihood that the person continues to suffer from a mental disease or ~~defect~~ *disorder* that causes the person to present a substantial risk of:

(i) serious bodily injury or death to the person or others;

(ii) an imminent threat of physical injury to the person or others; or

(iii) substantial property damage.

(2) The court may retain jurisdiction to revoke a conditional release for no longer than 5 years.

(3) If the court finds that the conditional release should be revoked, the court shall immediately order the person to be recommitted to the custody of the director of the department of public health and human services, subject to discharge or release only in accordance with the procedures provided in 46-14-302 and 46-14-303."

Section 21. Section 46-14-311, MCA, is amended to read:

"46-14-311. Consideration of mental disease or ~~defect~~ *disorder* or developmental disability in sentencing. (1) Whenever a defendant is convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims at the time of the omnibus hearing held pursuant to 46-13-110 or, if no omnibus hearing is held, at the time of any change of plea by the defendant that at the time of the commission of the offense of which convicted the defendant was suffering from a mental disease or ~~defect~~ *disorder* or developmental disability that rendered the defendant unable to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirements of law, the sentencing court shall consider any relevant evidence presented at the trial and shall also consider the results of the presentence investigation required pursuant to subsection (2).

(2) Under the circumstances referred to in subsection (1), the sentencing court shall order a presentence investigation and a report on the investigation pursuant to 46-18-111. The investigation must include a mental evaluation by a person appointed by the director of the department of public health and human services or the director's designee. The evaluation must include an opinion as to whether the defendant suffered from a mental disease or ~~defect~~ *disorder* or developmental disability with the effect as described in subsection (1). If the opinion concludes that the defendant did suffer from a mental disease or ~~defect~~ *disorder* or developmental disability with the effect as described in subsection (1), the evaluation must also include a recommendation as to the care, custody, and treatment needs of the defendant."

Section 22. Section 46-14-312, MCA, is amended to read:

"46-14-312. Sentence to be imposed. (1) If the court finds that the defendant at the time of the commission of the offense of which the defendant was convicted did not suffer from a mental disease or ~~defect~~ *disorder* as described in 46-14-311, the court shall sentence the defendant as provided in Title 46, chapter 18.

(2) If the court finds that the defendant at the time of the commission of the offense suffered from a mental disease or ~~defect~~ *disorder* or developmental disability as described in 46-14-311, any mandatory minimum sentence prescribed by law for the offense need not apply. The court shall sentence the defendant to be committed to the custody of the director of the department of public health and human services to be placed, after consideration of the recommendations of the professionals providing treatment to the defendant and recommendations of the professionals who have evaluated the defendant, in an appropriate correctional facility, mental health facility, as defined in 53-21-102, residential facility, as defined in 53-20-102, or developmental disabilities facility, as defined in 53-20-202, for custody, care, and treatment for a definite period of time not to exceed the maximum term of imprisonment that could be imposed under subsection (1). The director may, after considering the recommendations of the professionals providing treatment to the defendant and recommendations of the professionals who have evaluated the defendant, subsequently transfer the defendant to another correctional, mental health, residential, or developmental disabilities facility that will better serve the

defendant's custody, care, and treatment needs. The authority of the court with regard to sentencing is the same as authorized in Title 46, chapter 18, if the treatment of the individual and the protection of the public are provided for.

(3) Either the director or a defendant whose sentence has been imposed under subsection (2) may petition the sentencing court for review of the sentence if the professional person certifies that:

(a) the defendant no longer suffers from a mental disease or ~~defect~~ *disorder*;

(b) the defendant's mental disease or ~~defect~~ *disorder* no longer renders the defendant unable to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law;

(c) the defendant suffers from a mental disease or ~~defect~~ *disorder* or developmental disability but is not a danger to the defendant or others; or

(d) the defendant suffers from a mental disease or ~~defect~~ *disorder* that makes the defendant a danger to the defendant or others, but:

(i) there is no treatment available for the mental disease or ~~defect~~ *disorder*;

(ii) the defendant refuses to cooperate with treatment; or

(iii) the defendant will no longer benefit from active inpatient treatment for the mental disease or ~~defect~~ *disorder*.

(4) The sentencing court may make any order not inconsistent with its original sentencing authority, except that the length of confinement or supervision must be equal to that of the original sentence. The professional person shall review the defendant's status each year."

Section 23. Section 46-15-323, MCA, is amended to read:

"46-15-323. Disclosure by defendant. (1) At any time after the filing in district court of an indictment or information, the defendant, in connection with the particular crime charged and upon written request of the prosecutor and approval of the court:

(a) shall appear in a lineup;

(b) shall speak for identification by witnesses;

(c) must be fingerprinted, palm printed, footprinted, or voiceprinted;

(d) shall pose for photographs not involving reenactment of an event;

(e) shall try on clothing;

(f) shall permit the taking of samples of the defendant's hair, blood, saliva, urine, or other specified materials that do not involve unreasonable bodily intrusions;

(g) shall provide handwriting samples; or

(h) shall submit to a reasonable physical or medical inspection; however, the inspection does not include psychiatric or psychological examination.

(2) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall provide the prosecutor with a written notice of the defendant's intention to introduce evidence at trial of good character or the defenses of alibi, compulsion, entrapment, justifiable use of force, or mistaken identity.

(3) Within 10 days after receiving a report of the defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse or at a later time as the court may for good cause permit, the defendant shall provide the prosecutor with a written notice of the defendant's intention to introduce evidence at trial of the defense that because of a mental disease or

~~defect~~ *disorder*, the defendant did not have a particular state of mind that is an essential element of the offense charged.

(4) The notice must specify for each defense the names and addresses of the persons, other than the defendant, whom the defendant may call as witnesses in support of the defense, together with all written reports or statements made by them, including all reports and statements concerning the results of physical examinations, scientific tests, experiments, or comparisons, except that the defendant need not include a privileged report or statement unless the defendant intends to use the privileged report or statement, or the witness who made it, at trial.

(5) Prior to trial, the defendant may, upon motion and showing of good cause, add to the list of witnesses the names of any additional witnesses and disclose their reports or statements as required by this section. After the trial commences, no witness may be called by the defendant in support of these defenses unless the name of the witness is included on the list and the witness's report or statement has been disclosed as required by this section, except for good cause shown.

(6) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall make available to the prosecutor for testing, examination, or reproduction:

(a) the names, addresses, and statements of all persons, other than the defendant, whom the defendant may call as witnesses in the defense case in chief, together with their statements;

(b) the names and addresses of experts whom the defendant may call at trial, together with the results of their physical examinations, scientific tests, experiments, or comparisons, including all written reports and statements made by these experts in connection with the particular case; and

(c) all papers, documents, photographs, and other tangible objects that the defendant may use at trial.

(7) The defendant's obligation under this section extends to material and information within the possession or control of the defendant, defense counsel, and defense counsel's staff or investigators.

(8) Upon motion of the prosecutor showing that the prosecutor has substantial need in the preparation of the case for additional material or information not otherwise provided for, that the prosecutor is unable, without undue hardship, to obtain the substantial equivalent by other means, and that disclosure of the material or information will not violate the defendant's constitutional rights, the court, in its discretion, may order any person to make the material or information available to the prosecutor. The court may, upon request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive. The defense counsel may not be required to prepare or disclose summaries of witnesses' testimony."

Section 24. Section 53-1-104, MCA, is amended to read:

"53-1-104. Release of arsonist — notification of department of justice. (1) Each of the following institutions, correctional facilities, or other facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or ~~defect~~ *disorder* shall give written notification to the department of justice when the person is admitted or released by it:

(a) Montana state hospital;

(b) a state prison;

(c) a Montana youth correctional facility; or

(d) a county or city detention facility.

(2) The notification must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

Section 25. Section 80-20-102, MCA, is amended to read:

"80-20-102. Definitions. As used in this part, the following definitions apply:

(1) "Consent" means agreement in fact, whether express or apparent.

(2) "Crop" means a product grown, developed, or raised for purposes including but not limited to human or animal consumption, research, industrial use, commercial use, or pharmacological use.

(3) "Deprive" means to:

(a) withhold a crop or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the crop or property is lost to the owner;

(b) restore the crop or other property only upon payment of reward or other compensation; or

(c) dispose of a crop or other property in a manner that makes recovery of the crop or property by the owner unlikely.

(4) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:

(a) induced by force or threat;

(b) given by a person who the person to whom it is given knows is not legally authorized to act for the owner; or

(c) given by a person who by reason of youth, mental disease or ~~defect~~ *disorder*, or being under the influence of drugs or alcohol is known by the person to whom it is given to be unable to make reasonable decisions.

(5) "Notice" means:

(a) oral or written communication by the owner or someone with apparent authority to act for the owner;

(b) fencing or other enclosure obviously designed to exclude intruders or to contain crops; or

(c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.

(6) "Owner" means a person who has:

(a) title to the property; or

(b) lawful possession of the property.

(7) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, or partnership; two or more persons having a joint or common interest; or some other legal entity.

(8) "Possession" means actual care, custody, control, or management.

(9) "Research facility" means a public or private place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a crop is lawfully carried out, conducted, or attempted."

Section 26. Section 81-30-102, MCA, is amended to read:

"81-30-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Animal" means any warmblooded or coldblooded animal lawfully confined for food, fur, or fiber production, agriculture and its related activities, research, testing, or education. The term includes but is not limited to dogs, cats, poultry, fish, and invertebrates.

(2) "Animal facility" includes a vehicle, building, structure, research facility, or premises where an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale.

(3) "Consent" means agreement in fact, whether express or apparent.

(4) "Deprive" means to:

(a) withhold an animal or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(b) restore the animal or other property only upon payment of reward or other compensation; or

(c) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(5) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:

(a) induced by force or threat;

(b) given by a person that the offender knows is not legally authorized to act for the owner; or

(c) given by a person who by reason of youth, mental disease or ~~defect~~ *disorder*, or being under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.

(6) "Notice" means:

(a) oral or written communication by the owner or someone with apparent authority to act for the owner;

(b) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.

(7) "Owner" means a person who has:

(a) title to the property; or

(b) lawful possession of the property.

(8) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership; two or more persons having a joint or common interest; or some other legal entity.

(9) "Possession" means actual care, custody, control, or management.

(10) "Research facility" means a place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a living animal is lawfully carried out, conducted, or attempted."

Section 27. Effective date. [This act] is effective on passage and approval.

Section 28. Name change — directions to code commissioner. The code commissioner is directed to change the phrase "mental disease or defect" to "mental disease or disorder" wherever the phrase appears in legislation enacted by the 2015 legislature if the context in which the phrase is used is as it is used and defined in Title 46.

Approved April 1, 2015

CHAPTER NO. 162

[HB 397]

AN ACT REQUIRING THE RELEASE OF AN ORIGINAL BIRTH CERTIFICATE UPON THE WRITTEN REQUEST OF AN ADULT ADOPTEE; AND AMENDING SECTIONS 42-2-409, 42-6-102, 42-6-109, AND 50-15-223, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 42-2-409, MCA, is amended to read:

"42-2-409. Counseling requirements. (1) Counseling of the birth mother is required in department, agency, and direct parental placement adoptions. If any other parent is involved in an adoptive placement, counseling of that parent is encouraged.

(2) Counseling must be performed by a person employed by the department or by a staff person of a licensed child-placing agency designated to provide this type of counseling. Unless the counseling requirement is waived for good cause by a court, a minimum of 3 hours of counseling must be completed prior to execution of a relinquishment of parental rights and consent to adopt. A relinquishment and consent to adopt executed prior to completion of required counseling is void.

(3) During counseling, the counselor shall offer an explanation of:

(a) adoption procedures and options that are available to a parent through the department or licensed child-placing agencies;

(b) adoption procedures and options that are available to a parent through direct parental placement adoptions, including the right to an attorney and that legal expenses are an allowable expense that may be paid by a prospective adoptive parent as provided in 42-7-101 and 42-7-102;

(c) the alternative of parenting rather than relinquishing the child for adoption;

(d) the resources that are available to provide assistance or support for the parent and the child if the parent chooses not to relinquish the child;

(e) the legal and personal effect and impact of terminating parental rights and of adoption;

(f) the options for contact and communication between the birth family and the adoptive family;

(g) postadoptive issues, including grief and loss, and the existence of a postadoptive counseling and support program;

(h) the reasons for and importance of providing accurate medical and social history information under 42-3-101;

(i) the operation of the confidential intermediary program; and

(j) the fact that the adoptee may be provided with a copy of the original birth certificate upon request after reaching 18 years of age~~, unless the birth parent~~

~~has specifically requested in writing that the vital statistics bureau withhold release of the original birth certificate~~ *unless the birth parent has specifically requested in writing that the vital statistics bureau withhold release of the original birth certificate. The birth parent may change the request at any time by notifying the vital statistics bureau in writing of the change*.

(4) The counselor shall prepare a written report containing a description of the topics covered and the number of hours of counseling. The report must specifically include the counselor's opinion of whether or not the parent understood all of the issues and was capable of informed consent. The report must, on request, be released to the person counseled, to the department, to an agency, or with the consent of the person counseled, to an attorney for the prospective adoptive parents."

Section 2. Section 42-6-102, MCA, is amended to read:

"42-6-102. Disclosure of records — nonidentifying and identifying information — consensual release. (1) The department or an authorized person or agency may disclose:

(a) nonidentifying information to an adoptee, an adoptive or birth parent, or an extended family member of an adoptee or birth parent;

(b) identifying information to a court-appointed confidential intermediary upon order of the court or as provided in 50-15-121 and 50-15-122;

(c) identifying information limited to the specific information required to assist an adoptee to become enrolled in or a member of an Indian tribe; ~~and~~

(d) identifying information to authorized personnel during a federal child and family services review*; and*

(e) an original birth certificate as provided for in 42-6-109.

(2) Information may be disclosed to any person who consents in writing to the release of confidential information to other interested persons who have also consented. Identifying information pertaining to an adoption involving an adoptee who is still a child may not be disclosed based upon a consensual exchange of information unless the adoptee's adoptive parent consents in writing."

Section 3. Section 42-6-109, MCA, is amended to read:

"42-6-109. Release of original birth certificate — certificate of adoption. (1) ~~For a person adopted on or before July 1, 1967, in~~ *In* addition to any copy of an adoptee's original birth certificate authorized for release by a court order issued pursuant to 50-15-121 or 50-15-122, the department shall furnish a copy of the original birth certificate ~~upon the written request~~ of an adoptee~~.~~*:*

(a) upon the written request of a person who was adopted before October 1, 1985, or 30 years or more ago, whichever date is later;

(b) upon a court order for a person adopted on or after October 1, 1985, and before October 1, 1997; and

(c) for a person adopted on or after October 1, 1997, upon:

(i) the written request of an adoptee who has attained 18 years of age unless the birth parent has requested in writing that the original birth certificate not be automatically released; or

(ii) a court order.

~~(2) For a person adopted between July 1, 1967, and September 30, 1997, in addition to any copy of an adoptee's original birth certificate authorized for release by a court order issued pursuant to 50-15-121 or 50-15-122, the~~

~~department shall furnish a copy of the original birth certificate upon a court order.~~

~~(3) For a person adopted on or after October 1, 1997, in addition to any copy of an adoptee's original birth certificate authorized for release by a court order issued pursuant to 50-15-121 or 50-15-122, the department shall furnish a copy of the original birth certificate upon:~~

~~(a) the written request of an adoptee who has attained 18 years of age unless the birth parent has requested in writing that the original birth certificate not be automatically released; or~~

~~(b) a court order.~~

~~(4)~~*(2)* ~~For a person adopted on or after October 1, 1997, and subject to subsection (5), upon~~ *Upon* the request of an adoptive parent or an adoptee who has attained 18 years of age, the department shall issue a certificate of adoption that states the date and place of adoption, the date of birth of the adoptee, the name of each adoptive parent, and the name of the adoptee as provided in the decree.

~~(5) A birth parent may request in writing to the vital statistics bureau that the birth certificate for an adoptee not be released without a court order.~~

(3) A birth parent may request in writing to the vital statistics bureau that the birth certificate for an adoptee not be released without a court order. The birth parent may change the request at any time by notifying the vital statistics bureau in writing of the change.

~~(6)~~*(4)* The department may release a copy of the adoptee's original birth certificate if release of this document is required to assist an adoptee to become enrolled in or a member of an Indian tribe."

Section 4. Section 50-15-223, MCA, is amended to read:

"50-15-223. Certificates of birth following adoption, legitimation, or determination or acknowledgment of paternity. (1) The department shall establish a new certificate of birth for a person born in this state when the department receives the following:

(a) a certificate of adoption, as provided in 50-15-311, a certificate of adoption prepared and filed in accordance with the laws of another state or foreign country, or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) a request that a new certificate be established if the request shows that:

(i) a district court, court of appropriate jurisdiction in another state, or administrative agency in this state or another state with appropriate jurisdiction has determined the paternity of the person and information necessary to identify the original certificate of birth is provided; or

(ii) both parents have acknowledged the paternity of the person and request that the surname be changed from that shown on the original certificate.

(2) The date of birth and the city and county of birth must be stated in the newly established certificate of birth. The department shall substitute the new certificate of birth for the original certificate of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court determination of paternity, or paternity acknowledgment are only subject to inspection, except upon order of a district court, as provided by rule, as provided in Title 42, chapter 6, part 1, or as otherwise provided by state law.

(3) Upon receipt of a report of an amended decree of adoption, the department shall amend the certificate of birth as provided in rules adopted by the department.

(4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the original certificate of birth issued before the adoption to its place in the files and the certificate of birth issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection, except*:*

(a) as provided in Title 42, chapter 6, part 1;

(b) upon order of a district court*;* or

(c) as provided by rule adopted by the department.

(5) Upon written request of both parents and receipt of a sworn acknowledgment and other credible evidence of paternity signed by both parents of a child born outside of marriage, the department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on the certificate of birth.

(6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth is to be established under this section and the date and place of birth have not been determined in the adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with the department, as provided in 50-15-204, before a new certificate of birth may be established. The new certificate of birth must be prepared on a form prescribed by the department.

(7) When a new certificate of birth is established by the department, the department shall direct that all copies of the original certificate of birth in the custody of any other custodian of vital records in this state be forwarded immediately to the department.

(8) (a) The department shall, upon request of the adopting parents, prepare and register a certificate of birth in this state for a person who was born in a foreign country and adopted through a district court in this state.

(b) The certificate of birth must be established by the department upon receipt of a certificate of adoption, conforming to the requirements of 50-15-311, from the court that reflects entry of an order of adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or older.

(c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual country of birth. A statement must be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued.

(d) After registration of the certificate of birth in the new name of the adopted person, the department shall seal and file the certificate of adoption, which is not subject to inspection, except upon order of the district court, as provided by rule, or as otherwise provided by state law.

(9) The department may promulgate rules necessary to implement this section."

Approved April 1, 2015

CHAPTER NO. 163

[HB 481]

AN ACT PROVIDING ONE ADDITIONAL REGISTRATION EXEMPTION TO SECURITIES LAWS; ALLOWING SECURITIES ISSUERS TO ENGAGE IN CERTAIN SECURITIES TRANSACTIONS IF CONDUCTED WITHIN THIS STATE; AMENDING SECTION 30-10-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-105, MCA, is amended to read:

"30-10-105. Exempt transactions — rulemaking. Except as expressly provided in this section, 30-10-201 through 30-10-207 and 30-10-211 do not apply to the following transactions:

(1) a nonissuer isolated transaction, whether effected through a broker-dealer or not. A transaction is presumed to be isolated if it is one of not more than three transactions during the prior 12-month period.

(2) (a) a nonissuer distribution of an outstanding security by a broker-dealer registered pursuant to 30-10-201 if:

(i) quotations for the securities to be offered or sold or the securities issuable upon exercise of any warrant or right to purchase or subscribe to the securities are reported by the automated quotations system operated by the national association of securities dealers, inc., or by any other quotation system approved by the commissioner by rule; or

(ii) the security has a fixed maturity or a fixed interest or dividend provision and there has not been a default during the current fiscal year or within the 3 preceding fiscal years or if the issuer and any predecessors have been in existence for less than 3 years and there has not been a default in the payment of principal, interest, or dividends on the security.

(b) The commissioner may by order deny or revoke the exemption specified in subsection (2)(a) with respect to a specific security. Upon the entry of an order, the commissioner shall promptly notify all registered broker-dealers that it has been entered and give the reasons for the order and shall notify them that within 15 days of the receipt of a written request, the matter will be set for hearing. If a hearing is not requested and is not ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. An order under this subsection may not operate retroactively. A person may not be considered to have violated parts 1 through 3 of this chapter by reason of any offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the order.

(3) a nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the commissioner may require that the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(4) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter or between underwriters;

(5) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator in the performance of official duties;

(6) a transaction executed by a bona fide pledgee without any purpose of evading parts 1 through 3 of this chapter;

(7) an offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity;

(8) (a) a transaction pursuant to an offer made in this state directed by the offeror to not more than 10 persons, other than those designated in subsection (7), during any period of 12 consecutive months, if:

(i) the seller reasonably believes that all the buyers are purchasing for investment; and

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer. However, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended.

(b) a transaction pursuant to an offer made in this state directed by the offeror to not more than 25 persons, other than those designated in subsection (7), during any period of 12 consecutive months if:

(i) the seller reasonably believes that all the buyers are purchasing for investment;

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iii) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in this state and pays a filing fee that must accompany the application for approval. The commissioner may deny an application.

(c) a transaction pursuant to an offer made in this state by an offeror that is used in conjunction with the exemption found in subsection (8)(a) and the offeror has applied to the commissioner to use the exemption found in subsection (8)(b) in conjunction with or in addition to the exemption in subsection (8)(a), which the commissioner may allow if:

(i) the offeror has its corporate headquarters or principal place of business in this state;

(ii) the seller reasonably believes that all the buyers are purchasing for investment;

(iii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iv) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in addition to the offers made pursuant

to subsection (8)(a) and pays a filing fee that must accompany the application for approval. The commissioner may deny the application.

(d) For the purpose of the exemptions provided for in this subsection (8), an offer to sell is made in this state, whether or not the offeror or any of the offerees are then present in this state, if the offer either originates from this state or is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.

(9) an offer or sale of a preorganization certificate or subscription if:

(a) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective subscriber;

(b) the number of subscribers does not exceed 25; and

(c) a payment is not made by a subscriber;

(10) a transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if:

(a) a commission or other remuneration, other than a standby commission, is not paid or given directly or indirectly for soliciting any security holder in this state; or

(b) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow either subsection (10)(a) or the notice specifying the terms of the offer;

(11) an offer, but not a sale, of a security for which registration statements have been filed under both parts 1 through 3 of this chapter and the Securities Act of 1933 if a stop, refusal, denial, suspension, or revocation order is not in effect and a public proceeding or examination looking toward an order is not pending under either law;

(12) an offer, but not a sale, of a security for which a registration statement has been filed under parts 1 through 3 of this chapter and the commissioner does not disallow the offer in writing within 10 days of the filing;

(13) the issuance of a security dividend, whether the corporation distributing the dividend is the issuer of the security or not, if nothing of value is given by security holders for the distribution other than the surrender of a right to a cash dividend when the security holder can elect to take a dividend in cash or in securities;

(14) a transaction incident to a right of conversion, a statutory or judicially approved reclassification, or a recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(15) a transaction in compliance with rules that the commissioner may adopt to serve the purposes of 30-10-102. The commissioner may require that 30-10-201 through 30-10-207 and 30-10-211 apply to any transactional exemptions adopted by rule.

(16) the sale of a commodity investment contract traded on a commodities exchange recognized by the commissioner at the time of sale;

(17) a transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the Commodity Exchange Act;

(18) a transaction that:

(a) involves the purchase of one or more precious metals;

(b) requires, and under which the purchaser receives within 7 calendar days after payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased. For the purposes of this subsection, physical delivery is considered to have occurred if, within the 7-day period, the quantity of precious metals, whether in specifically segregated or fungible bulk, purchased by the payment is delivered into the possession of a depository, other than the seller, that:

(i) (A) is a financial institution, meaning a bank, savings institution, or trust company organized under or supervised pursuant to the laws of the United States or of this state;

(B) is a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission; or

(C) is a storage facility licensed by the United States or any agency of the United States; and

(ii) issues, and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held on the purchaser's behalf, free and clear of all liens and encumbrances other than:

(A) liens of the purchaser;

(B) tax liens;

(C) liens agreed to by the purchaser; or

(D) liens of the depository for fees and expenses that previously have been disclosed to the purchaser.

(c) requires the quantity of precious metals purchased and delivered into the possession of a depository, as provided in subsection (18)(b), to be physically located within Montana at all times after the 7-day delivery period provided in subsection (18)(b), and the precious metals are in fact physically located within Montana at all times after that delivery period;

(19) a transaction involving a commodity investment contract solely between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject to the contract or any byproduct of the commodity;

(20) an offer or sale of a security to an employee of the issuer, pursuant to an employee stock ownership plan qualified under section 401 of the Internal Revenue Code; or

(21) (a) an offer or sale of securities by a cooperative association organized under the provisions of Title 35, chapter 15 or 17, or under the laws of another state that are substantially the same as the provisions of Title 35, chapter 15 or 17, if the offer and sale are only to members of the cooperative association or the purchase of the securities is necessary or incidental to establishing membership in the cooperative association;

(b) a cooperative organized under the laws of another state may not take advantage of the exemption created by this subsection (21) unless, not less than 10 days before the issuance or delivery of the securities, the cooperative has furnished the commissioner with a general written description of the transaction and any other information the commissioner may require by rule or otherwise. The commissioner shall promulgate rules establishing a list of states whose laws are considered substantially the same as Title 35, chapter 15 or 17, for the purposes of this subsection (21).

(22) an offer or sale of securities in which:

(a) the offer or sale meets the following residency requirements:

(i) it is made in this state to residents of this state;

(ii) the issuer is a business entity formed under the laws of this state and registered with the Montana secretary of state;

(iii) prior to the offer or sale, the issuer has documentary evidence to establish a reasonable basis to believe the buyer is a resident of this state; and

(iv) the offer or sale meets the intrastate exemption requirements in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. 77c(a)(11), and 17 CFR 230.147;

(b) the offer or sale meets the following payment requirements:

(i) cash and other consideration received by the issuer for all securities transactions does not exceed $1,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption;

(ii) the issuer does not accept more than $10,000 from a buyer unless the buyer is an accredited investor under Rule 501 SEC Regulation D, 17 CFR 230.501;

(iii) the issuer reasonably believes that all buyers are purchasing for investment and not for sale in connection with a distribution of the security;

(iv) a commission or remuneration is not paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is a registered broker-dealer or agent under this chapter; and

(v) all funds received from buyers are deposited into a bank or depository institution authorized to do business in this state and used in accordance with representations made to investors;

(c) the issuer, within 10 days of any solicitation or within 15 days after the first sale of the security pursuant to this exemption, whichever occurs first, provides to the commissioner in a form prescribed by the commissioner notice that:

(i) specifies that the issuer is conducting an offering in reliance upon this exemption;

(ii) identifies the issuer;

(iii) lists all persons involved in the offer and sale of securities on behalf of the issuer;

(iv) identifies the bank or other depository institution where investor funds will be deposited; and

(v) includes payment of a filing fee;

(d) the issuer does not constitute any of the following:

(i) before or after the offer or sale, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78m and 78o(d);

(ii) before or after the offer or sale, an investment adviser as defined in this chapter or a person who otherwise provides investment advice as a service or for a fee;

(iii) before the offer or sale, an individual who has been convicted within 10 years before the sale, or 5 years in the case of issuers, their predecessors, and affiliated issuers, of a felony or misdemeanor;

(iv) before or after the offer or sale, a person subject to a final order that bars the person from the business of securities, insurance, or banking, issued by any of the following:

(A) a state or federal securities regulator or similar entity;

(B) a state or federal banking authority or similar entity;

(C) a state insurance commission or similar entity;

(e) the offer or sale:

(i) can be used in conjunction with any other exemption under this chapter except the exemptions for institutional investors under subsection (8) and for controlling persons of the issuer. Sales toward controlling persons do not count toward the limitation in subsection (22)(b).

(ii) is not available if the issuer or any of its officers, controlling persons, or promoters is disqualified under any part of this chapter;

(f) prior to the sale, the issuer informed all purchasers that the securities have not been registered under this chapter and cannot be resold unless the securities are registered or qualify for an exemption from registration; and

(g) the offer or sale is not:

(i) an offering proposing to issue stock or other equity interest in a development stage company without a specific business plan or purpose;

(ii) an offering in which the issuer has indicated that its business is to enlarge in a merger or acquisition with an unidentified company or companies or other unidentified entities or persons; or

(iii) an offering without an allocation of proceeds to sufficiently identifiable properties or objectives."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 1, 2015

CHAPTER NO. 164

[HB 518]

AN ACT REVISING LAWS RELATED TO SEARCH WARRANTS; PROVIDING JUDGES WITH THE AUTHORITY TO TEMPORARILY SEAL DOCUMENTS SEIZED PURSUANT TO SEARCH WARRANTS WHEN THE DEMAND OF INDIVIDUAL PRIVACY CLEARLY EXCEEDS THE MERITS OF PUBLIC DISCLOSURE; AMENDING SECTION 46-11-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Article II, Section 9, of the Constitution of the State of Montana provides:

"No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure"; and

WHEREAS, the Montana Supreme Court affirmed in A.P. v. State, 250 Mont. 299, 302, 820 P.2d 421, 422-23(1991), that this standard applies to the documents associated with search warrants sought and obtained by sworn law enforcement officers; and

WHEREAS, during the course of criminal investigations, peace officers often apply to judges for the issuance of search warrants for the purpose of searching and seizing evidence related to criminal investigation; and

WHEREAS, occasionally the immediate publication to the public of the documents related to the search warrant could be deeply invasive to individual privacy rights enjoyed in the state of Montana; and

WHEREAS, the issuing judge needs to be authorized to temporarily seal the documents related to such a search warrant within the bounds of Article II, Section 9, of the Constitution of the State of Montana.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-11-701, MCA, is amended to read:

"46-11-701. Pretrial proceedings — exclusion of public and sealing of records. (1) Except as provided in this section, pretrial proceedings and records of those proceedings are open to the public. If, at the pretrial proceedings, testimony or evidence is presented that is likely to threaten the fairness of a trial, the presiding officer shall advise those present of the danger and shall seek the voluntary cooperation of the news media in delaying dissemination of potentially prejudicial information until the impaneling of the jury or until an earlier time consistent with the administration of justice.

(2) The defendant may move that all or part of the proceeding be closed to the public, or with the consent of the defendant, the judge may take action on the judge's own motion.

(3) The judge may close a preliminary hearing, bail hearing, or any other pretrial proceeding, including a hearing on a motion to suppress, and may seal the record only if:

(a) the dissemination of information from the pretrial proceeding and its record would create a clear and present danger to the fairness of the trial; and

(b) the prejudicial effect of the information on trial fairness cannot be avoided by any reasonable alternative means.

(4) Whenever all or part of any pretrial proceeding is held in chambers or otherwise closed to the public under this section, a complete record must be kept and made available to the public following the completion of the trial or earlier if consistent with trial fairness.

(5) Notwithstanding closure of a proceeding to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect either party's right to a fair trial or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the defendant's right to a fair trial.

(6) *(a)* When the judge determines that all or part of a document filed in support of a charge or warrant would present a clear and present danger to the defendant's right to a fair trial, the document or portion of the document must be sealed until the trial is completed unless the document or portion of the document must be used for trial fairness.

(b) When a sworn affidavit in support of a search warrant is presented by a peace officer to a judge and the peace officer's request includes a request to seal the documents related to the search warrant, the judge may consider the evidence presented and, if the judge makes a finding from the evidence that the demand of individual privacy clearly exceeds the merits of public disclosure, the judge may order the documents related to the search warrant sealed until:

(i) a date certain;

(ii) the occurrence of a specific event;

(iii) the filing of a charge arising from or related to the execution of the search warrant; or

(iv) such other time as the judge deems appropriate."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2015

CHAPTER NO. 165

[HB 588]

AN ACT REVISING LAWS RELATED TO A REDUCTION IN SPENDING; AMENDING SECTION 17-7-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-140, MCA, is amended to read:

"17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection ~~(1)(b)~~ *(1)(c)*, shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least ~~1% of all general fund appropriations during the biennium~~*:*

(i) 3.5% of all general fund appropriations for the biennium prior to October of the year preceding a legislative session;

(ii) 1.875% of all general fund appropriations for the biennium in October of the year preceding a legislative session;

(iii) 1.25% of all general fund appropriations for the biennium in January of the year in which a legislative session is convened; and

(iv) 0.625% of all general fund appropriations for the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

~~(b)~~*(c)* The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending.

The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

(a) payment of interest and principal on state debt;

(b) the legislative branch;

(c) the judicial branch;

(d) the school BASE funding program, including special education;

(e) salaries of elected officials during their terms of office; and

(f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

(i) ~~2%~~ *5%* of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) ~~3/4 of 1%~~ *1.875%* in October of the year preceding a legislative session;

(iii) ~~1/2 of 1%~~ *1.25%* in January of the year in which a legislative session is convened; and

(iv) ~~1/4 of 1%~~ *0.625%* in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2015

CHAPTER NO. 166

[SB 41]

AN ACT GENERALLY REVISING BUSINESS NAME AND REGISTRATION LAWS; PROVIDING RULEMAKING AUTHORITY; REVISING PROVISIONS RELATED TO ASSUMED BUSINESS NAMES, CONTESTED CASES, CORPORATE NAMES, FOREIGN LIMITED LIABILITY COMPANY CERTIFICATES OF AUTHORITY, AND REGISTRATION OF LIMITED LIABILITY PARTNERSHIPS; AMENDING SECTIONS 30-13-203, 35-1-310, 35-4-206, 35-8-1003, 35-10-701, AND 35-10-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Secretary of state rulemaking authority. The secretary of state may adopt rules to implement the provisions of this chapter that assign duties to the secretary of state.

Section 2. Section 30-13-203, MCA, is amended to read:

"30-13-203. Application for registration of assumed business name. A person transacting business in this state under an assumed business name shall register with the secretary of state, on forms furnished by the secretary of state, an application for registration of the assumed business name, including but not limited to the following information:

(1) the name and business mailing address of the applicant;

(2) the complete proposed assumed business name; *and*

~~(3) the date of first use, in commerce, of the proposed assumed business name; and~~

~~(4)~~*(3)* a description of business transacted under the proposed assumed name."

Section 3. Section 35-1-310, MCA, is amended to read:

"35-1-310. Contest of registration of name — penalty. (1) A person doing business in this state may contest the registration of a name under this section with the office of the secretary of state by filing an acknowledged notice of contest with the secretary of state and sending a copy of the notice of contest to the person who registered the contested name. The notice to the secretary of state must be accompanied by a $100 deposit, which the secretary of state shall award to the prevailing party in the contest.

(2) Upon receipt of a notice of contest, the secretary of state shall ask each party to the contest to submit within 30 days an affidavit setting forth the facts, opinions, and arguments for or against the retention of the contested name in the records of the secretary of state. The secretary of state shall review the affidavits and shall make a decision or order a hearing to be held within 30 days. If a hearing is ordered, the parties shall meet with the secretary of state before the hearing and attempt to settle the contest. If a settlement is not reached, the secretary of state shall hold a hearing. At the hearing the secretary of state may consider evidence presented by the parties relating to the factual or legal issues raised by the contest. A record of the hearing is not required. The hearing is not a contested case hearing. Where consistent with this section, the informal procedures of the Montana Administrative Procedure Act apply.

(3) The secretary of state may order that the contested name be changed on the records of the secretary of state if it is likely that the use of the names will cause confusion, mistake, or deception among the public when applied to the goods or services provided by the businesses. In determining whether confusion, mistake, or deception is likely, the secretary of state shall consider:

(a) the strength or unique nature of the names;

(b) the similarity of sound, appearance, or meaning of the names;

(c) the intent of the parties;

(d) the type of businesses engaged in or to be engaged in by the parties;

(e) the geographic market areas served by each party and the manner of distribution and marketing used in those areas;

(f) the nature and quality of goods or services provided by the parties;

(g) the level of sophistication of potential purchasers of goods or services offered by the parties;

(h) the length of time the parties have been transacting business under the name or names in question;

(i) whether the party contesting the registration of a name failed to make a timely objection or acquiesced to the use of the name so that it would be inequitable to prohibit its registration; and

(j) whether the names in question are in fair use, have been abandoned, or are parodies of other names.

(4) The secretary of state shall make a decision for one of the parties within 10 days of the hearing and may order that the contested name be changed in the records of the secretary of state and the relevant documents be amended by the secretary of state in a manner that results in a new name that is ~~not the same as or deceptively similar~~ *distinguishable on the record* to another name registered with the office of the secretary of state.

(5) The secretary of state may order that the losing party pay any attorney fees and costs incurred by the prevailing party to contest the name or by the secretary of state to administer the provisions of this section, including any hearings.

(6) A party may appeal the decision of the secretary of state to the district court within 20 days. The district court shall consider the factual and legal issues without reference to the decision of the secretary of state.

(7) (a) A person who registers an assumed business name under 30-13-202 with the intent to deceive or harass another person doing legitimate business under the laws of this state is subject to a penalty of $1,000 in a civil action brought by a county attorney in the district court with jurisdiction for the county.

(b) A penalty collected pursuant to subsection (7)(a) must be deposited in the county general fund."

Section 4. Section 35-4-206, MCA, is amended to read:

"35-4-206. Corporate name. The name of a domestic or foreign professional corporation:

(1) ~~(a) (i) except as provided in subsection (1)(b),~~ must contain the words "professional corporation" or the abbreviation "P.C."~~;~~ and

~~(ii)~~ may not contain any other words to indicate the type of business that it is other than "professional corporation" or "P.C."~~;~~ unless

~~(b)~~ the name of a foreign corporation contains the words "professional services" or "P.S.";

(2) may not contain any word or phrase that indicates or implies that the corporation is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) ~~may not be the same as or deceptively similar to~~ *must be distinguishable on the record from* any assumed business name, limited partnership name, limited liability company name, trademark, or service mark registered or reserved with the secretary of state or to the name of any domestic corporation existing under the laws of this state, any foreign corporation authorized to transact business in this state, a name the exclusive right to which is reserved in the manner provided in the Montana Business Corporation Act, or the name of a corporation that has in effect a registration of its corporate name as provided in the Montana Business Corporation Act. This subsection does not apply if:

(a) the similarity results from the use in the corporate name of personal names of shareholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(b) the corporation files with the secretary of state either*:*

(i) the written consent of the other corporation or holder of a reserved or registered name to use ~~the same or a deceptively similar name and one or more words are added to make the name~~ *a name that is not* distinguishable *on the record* from the other name*;* or

(ii) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the corporation to the use of the name in this state.

(4) must conform to rules promulgated by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation."

Section 5. Section 35-8-1003, MCA, is amended to read:

"35-8-1003. Application for certificate of authority. (1) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign limited liability company or, if its name is unavailable for use in this state, a name that satisfies the requirements of 35-8-1009;

(b) the name of the jurisdiction under whose law it is organized;

(c) its date of organization and period of duration;

(d) the business mailing address of its principal office, wherever located;

(e) the information required by 35-7-105(1); ~~and~~

(f) the names and business mailing addresses of its current managers, if different from its members*; and*

(g) if the foreign limited liability company has one or more series of members, the name of each series of members. A copy of the operating agreement of each series of members must be included with the application.

(2) A foreign limited liability company shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the jurisdiction under whose law the foreign limited liability company is organized."

Section 6. Section 35-10-701, MCA, is amended to read:

"35-10-701. Registration of limited liability partnerships. (1) To become a limited liability partnership, a partnership shall file with the secretary of state an application for registration on a form furnished by the secretary of state that indicates an intention to register as a limited liability partnership under this section.

(2) The application for registration of a limited liability partnership must be executed by two or more partners authorized to execute the application and registration and must contain the following information:

(a) the name and business mailing address of the limited liability partnership;

~~(b) the date of first use, in commerce, of the proposed limited liability partnership;~~

~~(c)~~*(b)* a description of business transacted by the limited liability partnership; and

~~(d)~~*(c)* the name and business mailing address of each of the partners.

(3) The secretary of state shall register as a limited liability partnership any partnership that substantially complies with this section.

(4) A partnership's registration under this section is effective when the secretary of state files the partnership's application for registration under subsection (1) and remains in effect until it is canceled by the secretary of state.

(5) The fact that an application for registration of a limited liability partnership under this section or any renewals of that partnership are on file with the office of the secretary of state is notice that the partnership is a limited liability partnership and is notice of all other facts set forth in the application.

(6) The secretary of state shall provide necessary forms for the registration of a limited liability partnership under subsections (1) and (2) or any renewals of registration."

Section 7. Section 35-10-703, MCA, is amended to read:

"35-10-703. Name of limited liability partnerships. (1) The name of a limited liability partnership must contain the words "limited liability partnership", the abbreviation "l.l.p." or "llp", or other words or abbreviations that may be required or authorized by the laws of the state in which the partnership is formed, including without limitation "professional limited liability partnership" or the abbreviation "p.l.l.p." or "pllp".

(2) The name of a limited liability partnership *must be distinguishable on the record and* may not contain business name identifiers, as defined in 30-13-201, or other language that states or implies that the limited liability partnership is other than a limited liability partnership."

Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 30, chapter 13, and the provisions of Title 30, chapter 13, apply to [section 1].

Section 9. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2015

CHAPTER NO. 167

[SB 151]

AN ACT ELIMINATING THE REQUIREMENT THAT CAMPAIGN REPORTS ALSO BE FILED WITH AN ELECTION ADMINISTRATOR; AND AMENDING SECTIONS 13-37-201 AND 13-37-225, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file the certification, which must include an organizational statement and the name and address of all officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee must be filed with the commissioner ~~and the appropriate election administrator as specified for the filing of reports in 13-37-225~~."

Section 2. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required. (1) Except as provided in 13-37-206, each candidate and political committee shall file *with the commissioner* periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. ~~Except as provided in subsection (3), all reports required by this chapter must be filed with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports must be filed with the election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the election administrator in the county that the commissioner specifies.~~

(2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law.

~~(3) Reports required by this chapter for candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or district court judge, and candidates for a state office filled by a statewide vote must be filed with the commissioner and do not have to be filed with the election administrator of a county.~~"

Approved April 1, 2015

CHAPTER NO. 168

[SB 174]

AN ACT REVISING LAWS GOVERNING THE INVESTMENT AND EXPENDITURE OF PERMANENT CARE AND IMPROVEMENT FUNDS MANAGED BY TRUSTEES OF A CEMETERY ASSOCIATION; ALLOWING PERMANENT CARE AND IMPROVEMENT FUNDS TO BE MANAGED AND

INVESTED PURSUANT TO THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; AMENDING SECTION 35-20-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Permanent care and improvement fund — investment of fund. (1) A permanent care and improvement fund established pursuant to 35-20-301 is considered an endowment fund as defined in 72-30-102.

(2) The trustees may manage, invest, and appropriate the fund pursuant to the Uniform Prudent Management of Institutional Funds Act provided for in Title 72, chapter 30.

(3) The trustees may annually appropriate a percentage of the fair market value of the fund to the treasurer of the association to use for the purposes set forth in 35-20-312.

Section 2. Section 35-20-313, MCA, is amended to read:

"35-20-313. Investment of fund. The principal of ~~such~~ *the* fund may be invested in the way in which public employees' retirement funds are permitted to be invested in the state of Montana as prescribed by 17-6-211 ~~and not otherwise~~. Each investment made by the trustee or by the board of trustees ~~shall be~~ *is* subject to the approval of the board of trustees of the cemetery association."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 35, chapter 20, part 3, and the provisions of Title 35, chapter 20, part 3, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Applicability. [This act] applies to all permanent care and improvement funds established pursuant to 35-20-301.

Approved April 1, 2015

CHAPTER NO. 169

[HB 44]

AN ACT REVISING LAWS RELATED TO THE LICENSING OF PUBLIC ACCOUNTANTS; CREATING A SINGLE LICENSE TYPE FOR PUBLIC ACCOUNTANTS; ELIMINATING THE ISSUANCE OF CERTIFICATES AND PERMITS FOR PUBLIC ACCOUNTANTS; ELIMINATING THE ISSUANCE OF LICENSES FOR LICENSED PUBLIC ACCOUNTANTS; ALLOWING FOR A REGISTRATION FEE; REVISING REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANTS; AMENDING SECTIONS 2-7-501, 2-15-1756, 15-61-102, 15-63-102, 37-50-101, 37-50-102, 37-50-203, 37-50-301, 37-50-302, 37-50-305, 37-50-309, 37-50-314, 37-50-316, 37-50-325, 37-50-330, 37-50-335, 37-50-341, 37-50-401, 37-50-402, 37-50-403, 80-4-502, AND 80-4-601, MCA; REPEALING SECTIONS 37-50-303, 37-50-304, 37-50-310, 37-50-311, 37-50-312, 37-50-313, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-7-501, MCA, is amended to read:

"2-7-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Audit" means a financial audit and includes financial statement and financial-related audits as defined by government auditing standards as established by the U.S. comptroller general.

(2) "Board" means the Montana board of public accountants provided for in 2-15-1756.

(3) "Department" means the department of administration.

(4) (a) "Financial assistance" means assistance provided by a federal, state, or local government entity to a local government entity or subrecipient to carry out a program. Financial assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, or other noncash assistance. Financial assistance includes awards received directly from federal and state agencies or indirectly when subrecipients receive funds identified as federal or state funds by recipients. The granting agency is responsible for identifying the source of funds awarded to recipients. The recipient is responsible for identifying the source of funds awarded to subrecipients.

(b) Financial assistance does not include direct federal, state, or local government cash assistance to individuals.

(5) "Financial report" means a presentation of financial statements, including applicable supplemental notes and supplemental schedules, that are prepared in a format published by the department using the Budgetary Accounting and Reporting System for Montana Cities, Towns, and Counties Manual and that reflect a current financial position and the operating results for the 1-year reporting period.

(6) "Independent auditor" means:

(a) a federal, state, or local government auditor who meets the standards specified in the government auditing standards; or

(b) a ~~licensed~~ *certified public* accountant who meets the standards in subsection (6)(a).

(7) (a) "Local government entity" means a county, city, district, or public corporation that:

(i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government revenue for the purpose of serving the general public;

(ii) is governed by a board, commission, or individual elected or appointed by the public or representatives of the public; and

(iii) receives local, state, or federal financial assistance.

(b) Local government entities include but are not limited to:

(i) airport authority districts;

(ii) cemetery districts;

(iii) counties;

(iv) county housing authorities;

(v) county road improvement districts;

(vi) county sewer districts;

(vii) county water districts;

(viii) county weed management districts;

(ix) drainage districts;

(x) fire companies;

(xi) fire districts;

(xii) fire service areas;

(xiii) hospital districts;

(xiv) incorporated cities or towns;

(xv) irrigation districts;

(xvi) mosquito districts;

(xvii) municipal fire departments;

(xviii) municipal housing authority districts;

(xix) port authorities;

(xx) solid waste management districts;

(xxi) rural improvement districts;

(xxii) school districts, including a district's extracurricular funds;

(xxiii) soil conservation districts;

(xxiv) special education or other cooperatives;

(xxv) television districts;

(xxvi) urban transportation districts;

(xxvii) water conservancy districts;

(xxviii) regional resource authorities; and

(xxix) other miscellaneous and special districts.

(8) "Revenues" means all receipts of a local government entity from any source excluding the proceeds from bond issuances."

Section 2. Section 2-15-1756, MCA, is amended to read:

"2-15-1756. Board of public accountants. (1) There is a board of public accountants.

(2) The board consists of seven members appointed by the governor. The members are:

(a) ~~except as provided in subsection (3),~~ five certified public accountants ~~certified~~ *licensed* under Title 37, chapter 50, who are ~~certified and~~ actively engaged in the practice of public accounting and who have held a valid ~~certificate~~ *license* for at least 5 years before being appointed; and

(b) two members of the general public who are not engaged in the practice of public accounting.

~~(3) The board may include four certified public accountants pursuant to subsection (2)(a) and one licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public accounting and who has held a valid license for at least 5 years prior to appointment.~~

~~(4)~~*(3)* Professional associations of public accountants may submit to the governor a list of names of two candidates for each position from which the appointment pursuant to subsection (2)(a) may be made. However, the governor is not restricted to the names on the list. ~~The list may include recommendations for a certified public accountant or a licensed public accountant.~~

~~(5)~~*(4)* Each appointment is subject to confirmation by the senate and must be submitted for consideration at the next regular session following appointment.

~~(6)~~*(5)* The members shall serve staggered 4-year terms. The governor may remove a member for neglect of duty or other just cause.

~~(7)~~*(6)* The board is allocated to the department *of labor and industry* for administrative purposes only as prescribed in 2-15-121."

Section 3. Section 15-61-102, MCA, is amended to read:

"15-61-102. Definitions. As used in this chapter, unless it clearly appears otherwise, the following definitions apply:

(1) "Account administrator" means:

(a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

(b) a health care insurer as defined in 33-22-125;

(c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

(d) an employer if the employer has a self-insured health plan under ERISA;

(e) the account holder or an employee for whose benefit the account in question is established;

(f) a broker, insurance producer, or investment adviser regulated by the commissioner of insurance;

(g) an attorney licensed to practice law in this state;

(h) ~~a licensed public accountant or~~ a person who is an enrolled agent allowed to practice before the United States internal revenue service.

(2) "Account holder" means an individual who is a resident of this state and who establishes a medical care savings account or for whose benefit the account is established.

(3) "Dependent" means the spouse of the employee or account holder or a child of the employee or account holder if the child is:

(a) under 23 years of age and enrolled as a full-time student at an accredited college or university or is under 19 years of age;

(b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

(4) "Eligible medical expense" means an expense paid by the employee or account holder for medical care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the employee or account holder.

(5) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. The term includes a self-employed individual.

(6) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(7) "Medical care savings account" or "account" means an account established with an account administrator in this state pursuant to 15-61-201."

Section 4. Section 15-63-102, MCA, is amended to read:

"15-63-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Account administrator" means:

(a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

(b) a certified public accountant ~~or a licensed public accountant~~ licensed to practice in this state pursuant to Title 37, chapter 50; or

(c) the account holder.

(2) "Account holder" means an individual who is a resident of this state and who establishes, individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer. A married taxpayer filing separately may be an account holder if the account is established

separately from the taxpayer's spouse. Married taxpayers filing jointly are considered as the account holder.

(3) "Eligible costs" means the downpayment and allowable closing costs for the purchase of a single-family residence in Montana by a first-time home buyer.

(4) "First-time home buyer" means an individual who has never owned or purchased under contract for deed, either individually or jointly, a single-family residence in Montana or out-of-state.

(5) "First-time home buyer savings account" or "account" means an account established with an account administrator in this state pursuant to 15-63-201.

(6) "Single-family residence" means an owner-occupied residence in Montana, including a manufactured home, trailer, or mobile home, that is an improvement to real property or a condominium unit that is owned by or that has been purchased under contract for deed by a person, individually or jointly."

Section 5. Section 37-50-101, MCA, is amended to read:

"37-50-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Affiliated entity" means an entity owned, leased, or controlled by a firm through common employment or any other service arrangement, including but not limited to financial or investment services, insurance, real estate, and employee benefits services.

(2) "Agreed-upon procedures engagement" means an engagement performed in accordance with applicable attestation standards and in which a firm or person is engaged to issue a written finding that:

(a) is based on specific procedures that the specified parties agree are sufficient for their purposes;

(b) is restricted to the specified parties; and

(c) does not provide an opinion or negative assurance.

(3) "Attest" means providing the following services:

(a) an audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) a review of a financial statement to be performed in accordance with the statements on standards for accounting and review services;

(c) an examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements;

(d) an engagement to be performed in accordance with the auditing standards of the public company oversight board; and

(e) an agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements.

(4) "Board" means the board of public accountants provided for in 2-15-1756.

(5) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that presents, in the form of financial statements, information that is the representation of owners without undertaking to express any assurance on the statements.

(6) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(7) "Firm" means a *sole practice,* sole proprietorship, partnership, professional corporation, or limited liability company engaged in the practice of public accounting.

(8) "Home office" is the location specified by the client as the address where a service described in 37-50-325(4) is directed.

(9) "Peer review" means a board-approved study, appraisal, or review of one or more aspects of the attest or compilation work of a ~~permittee or~~ licensee of a registered firm in the practice of public accounting, by a person or persons who hold licenses in this or another jurisdiction and who are not affiliated with the person or firm being reviewed.

(10) "Practice of public accounting" means performing or offering to perform, by a person ~~certified under 37-50-302,~~ licensed *as a certified public accountant* ~~under 37-50-303~~, or holding a practice privilege under 37-50-325, for a client or potential client one or more types of services involving the use of accounting or auditing skills, including:

(a) the issuance of reports or financial statements on which the public may rely;

(b) one or more types of management advisory or consulting services *as determined by the board*;

(c) the preparation of tax returns; or

(d) furnishing advice on tax matters.

(11) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency.

(12) "Satellite office" means a secondary location of a registered public accounting firm.

~~(12)~~*(13)* "Substantial equivalency" or "substantially equivalent" means a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act or subsequent acts or that an individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency, the board shall take into account the qualifications without regard to the sequence in which the experience, education, and examination requirements were attained."

Section 6. Section 37-50-102, MCA, is amended to read:

"37-50-102. Exemptions. This chapter does not prohibit any person who is not a certified public accountant ~~or licensed public accountant~~ from serving as an employee of or an assistant to a certified public accountant ~~or a licensed public accountant~~ holding a ~~permit~~ *license* to practice under ~~37-50-314,~~ *37-50-302 or* a firm composed of certified public accountants ~~or licensed public accountants~~ registered under this chapter~~, or a foreign accountant whose credentials have been recognized under 37-50-313~~. However, the employee or assistant may not issue any accounting or financial statement in the employee's or assistant's name."

Section 7. Section 37-50-203, MCA, is amended to read:

"37-50-203. Rules of board. (1) The board may adopt rules, consistent with the purposes of this chapter, that it considers necessary.

(2) The board shall adopt:

(a) rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accounting, including competency in specific fields of public accounting;

~~(b) rules of procedure governing the conduct of matters before the board;~~

~~(c)~~*(b)* rules governing education requirements, as provided in 37-50-305, for issuance of the ~~certificate~~ *license* of a certified public accountant ~~and the license for licensed public accountant~~;

~~(d)~~*(c)* rules defining requirements for accounting experience, not exceeding 2 years, for issuance of the initial ~~permit~~ *license*; and

~~(e)~~*(d)* rules to enforce the provisions of this chapter. The purpose of the rules ~~must be~~ *is* to provide for the monitoring of the profession of public accounting and to maintain the quality of the accounting profession.

(3) The board may adopt rules:

(a) governing firms and other types of entities practicing public accounting, including but not limited to rules concerning style, name, title, and affiliation with other organizations; *and*

~~(b) (i) establishing reasonable standards with respect to professional liability insurance and unimpaired capital; and~~

~~(ii) prescribing joint and several liability for torts relating to professional services for shareholders of a firm or owners of other types of entities that fail to comply with standards established pursuant to subsection (3)(b)(i); and~~

~~(c)~~*(b)* establishing education and experience qualifications for out-of-state and foreign accountants seeking ~~permits, certificates, or~~ licenses to practice in Montana."

Section 8. Section 37-50-301, MCA, is amended to read:

"37-50-301. Illegal use of title. (1) It is not a violation of this chapter for a firm that is not registered under 37-50-335 and that does not have an office in this state to provide its professional services and to practice public accounting in this state and use the title "CPA" or "CPA firm" so long as it complies with the exemption requirements of 37-50-335~~(2)~~*(4)*.

(2) A person may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a certified public accountant unless the person holds a current ~~certificate~~ *license* as a certified public accountant under this chapter or qualifies for the practice privilege under 37-50-325. ~~However, a foreign accountant whose credentials are recognized under the provisions of 37-50-313 shall use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received.~~

(3) A firm may not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the firm is composed of certified public accountants pursuant to the requirements of 37-50-330 unless it is registered as required under 37-50-335 or meets the conditions to be exempt from registration as set forth in 37-50-335~~(2)~~*(4)*.

~~(4) A person may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless the person holds a current license as a licensed public accountant under this chapter.~~

~~(5) A firm may not assume or use the title or designation "licensed public accountant", "public accountant", or any other title, designation, words, letters,~~

~~abbreviation, sign, card, or device indicating that the firm is composed of public accountants unless it is registered as required under 37-50-335.~~

~~(6)~~*(4)* A person or firm may not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant", "licensed *certified* public accountant", ~~"public accountant" or any of the abbreviations "CA", "EA", "LA", or "RA" or similar~~ *or any* abbreviations likely to be confused with "CPA". However, a foreign accountant ~~whose credentials are recognized under 37-50-313 shall~~ *may* use the title under which the foreign accountant is generally known in the foreign country, followed by the name of the country from which the foreign accountant's certificate, license, or degree was received, and a person who is licensed as an enrolled agent by the internal revenue service may use the title "enrolled agent" or the abbreviation "EA".

~~(7) A person may not sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating that the person has expert knowledge in accounting or auditing to any accounting or financial statement or to any opinion on, report on, or certificate to any accounting or financial statement unless the person holds a current permit issued under 37-50-314 and all of the person's offices in this state for the practice of public accounting are maintained and registered under 37-50-335. However, the provisions of this subsection do not prohibit any officer, employee, partner, or principal of any organization from affixing a signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title, or office that the person holds in that organization, nor do the provisions of this subsection prohibit any act of a public official or public employee in the performance of the official's or employee's public duties.~~

~~(8)~~*(5)* A person may not sign or affix a firm name with any wording indicating that it is a firm composed of persons ~~having expert knowledge in accounting or auditing to any accounting or financial statement or to any report on or certificate to any accounting or financial statement~~ *offering attest services and compilations* unless the firm conforms to the requirements of 37-50-330 and is registered as required under 37-50-335.

~~(9)~~*(6)* A person may not assume or use the title or designation "certified public accountant" ~~or "public accountant"~~ in conjunction with names indicating or implying that there is a firm or in conjunction with the designation "and company" or "and co." or a similar designation if there is in fact no bona fide firm that has been formed subject to the provisions of 37-50-330 and registered under 37-50-335. However, it is lawful for a sole proprietor to continue the use of a deceased's name in connection with the sole proprietor's business for a reasonable period of time after the death of a former partner or co-owner."

Section 9. Section 37-50-302, MCA, is amended to read:

"37-50-302. Certified public accountants — ~~certification~~ *licensure* — qualifications and requirements. The board shall grant an initial ~~certificate~~ *license* as a certified public accountant to any person who:

(1) is of good moral character;

(2) has successfully passed the certified public accountants' examination; ~~and~~

(3) meets the requirements of education *and accounting experience* set forth in this chapter and in board rules~~.~~*; and*

(4) has successfully completed the professional ethics for CPAs course of the American institute of certified public accountants or its successor organization as defined in board rule."

Section 10. Section 37-50-305, MCA, is amended to read:

"37-50-305. Education requirements. (1) ~~A candidate~~ *An applicant* for initial ~~certification~~ *licensure* as a certified public accountant ~~or licensing as a licensed public accountant~~ must have ~~graduated from a college or university accredited to offer a baccalaureate degree~~:

~~(a) with an accounting concentration or its equivalent as determined by the board; and~~

~~(b) with at least 150 semester hours of credit, including those earned toward the baccalaureate degree or its equivalent.~~

(a) graduated from an accredited college or university with a baccalaureate degree and at least 150 semester hours of credit; and

(b) met the requirements for accounting and business course credit hours specified by board rule.

(2) For the purposes of this section, "initial ~~certification~~ *licensure*" means that the ~~candidate~~ *applicant* has never been ~~certified~~ *licensed* as a certified public accountant ~~or licensed as a licensed public accountant~~ by any jurisdiction."

Section 11. Section 37-50-309, MCA, is amended to read:

"37-50-309. Credit for examinations taken in other jurisdictions. The board may ~~by rule provide for granting~~ *grant* credit to ~~a candidate~~ *an applicant* for the satisfactory completion of ~~an examination in any one or more of the subjects of examination given by the licensing authority~~ *the uniform certified public accountant examination taken* in another jurisdiction."

Section 12. Section 37-50-314, MCA, is amended to read:

"37-50-314. ~~Permit~~ *License* required — ~~display~~ *proof of licensure.* (1) A person may not engage in the practice of public accounting in this state without a current ~~permit~~ *license* issued by the department. A ~~permit~~ *license* to engage in the practice of public accounting in this state must be issued by the department to a person who ~~holds a current certificate as a certified public accountant or license as a licensed public accountant and~~ complies with the requirements of this chapter.

(2) The current ~~permit~~ *license* to ~~engage in the~~ practice ~~of~~ public accounting must be ~~prominently displayed for public inspection~~ *presented as proof of licensure upon request by a client*.

(3) ~~A~~ *Upon request from a Montana client, a* person qualifying for a practice privilege under 37-50-325(1) or (2) ~~is exempt from this requirement~~ *shall present proof of licensure from the state where the person is licensed*."

Section 13. Section 37-50-316, MCA, is amended to read:

"37-50-316. Other license fees prohibited. ~~No certificate, permit, or license~~ *License* fees ~~shall~~ *may not* be imposed as a condition upon the practice of public ~~accountancy~~ *accounting* other than those provided for in this chapter."

Section 14. Section 37-50-325, MCA, is amended to read:

"37-50-325. Practice privilege for nonresident certified public accountant — rules. (1) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy's national qualification appraisal service or a successor organization has verified to be in

substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute of certified public accountants/national association of state boards of accountancy ~~has~~ *is presumed to have* qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a ~~certificate and a permit~~ *license* of this state without the need to obtain a ~~certificate~~ *license* under 37-50-302 ~~or a permit under 37-50-314~~.

(b) A person who offers or renders professional services under this section, whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required. The person is subject to the requirements of subsections (3) and (4) and this subsection (1).

(2) (a) A person whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state that the national association of state boards of accountancy's national qualification appraisal service or a successor organization has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act or a subsequent act of the American institute of certified public accountants/national association of state boards of accountancy ~~has~~ *is presumed to have* qualifications substantially equivalent to this state's requirements and has all the privileges of persons holding a ~~certificate and a permit~~ *license* of this state without the need to obtain a ~~certificate~~ *license* under 37-50-302 ~~or a permit under 37-50-314~~ if the person obtains verification from the national association of state boards of accountancy's national qualification appraisal service that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act of the American institute of certified public accountants/national association of state boards of accountancy.

(b) A person who has passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, is exempt from the education requirements in the Uniform Accountancy Act or a subsequent act for purposes of this subsection (2).

(c) A person who offers or renders professional services under this subsection (2), whether in person, by mail, by telephone, or by electronic means, is granted practice privileges in this state and no notice, fee, or other submission is required *unless the person is registered pursuant to 37-50-335.* The person is subject to the requirements of subsections (3) and (4) and this subsection (2).

(3) A licensee of another state exercising the privilege under this section and the firm that employs that person, as a condition of the grant of this privilege:

(a) are subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) shall comply with this chapter and the board's rules;

(c) shall cease offering or rendering professional services in this state individually or on behalf of a firm if the license from the state of the person's principal place of business is no longer valid; and

(d) shall accept the appointment of the state board that issued the license as the agent upon whom process may be served in any action or proceeding by the board of public accountants against the licensee.

(4) A person who has been granted practice privileges under this section and who, for any client with its home office in this state, performs any attest services or compilations may do so only through a firm registered under 37-50-335."

Section 15. Section 37-50-330, MCA, is amended to read:

"37-50-330. Compliance with ownership requirements — firm registration. (1) A firm composed of certified public accountants ~~or a firm composed of public accountants that is or plans to become~~ *that is* engaged in the practice of public accounting may include persons who are not licensed ~~as public accountants or certified~~ as certified public accountants if:

(a) the firm designates an accountant who is licensed ~~or certified~~ in this state or, in the case of a firm that ~~must be registered~~ *practices under the practice privilege* pursuant to 37-50-335, a licensee of another state who meets the requirements set out in 37-50-325(1) or (2) to be responsible for the proper registration of the firm;

(b) a simple majority of ownership in the firm, in terms of equity and voting rights, is held by accountants who are licensed ~~or certified accountants~~ in this state or in another substantially equivalent jurisdiction or meet the requirements of 37-50-325~~(2)~~; *and*

(c) all persons with an ownership interest in the firm are individuals actively participating in the business of the firm or its affiliated entities~~; and~~

~~(d) any person with an ownership interest in the firm who is not licensed or certified as an accountant and who holds a professional license, registration, or certification issued by this state or another jurisdiction is in compliance with the requirements for that license, registration, or certification~~.

(2) An accountant licensed ~~or certified~~ in this state or a person qualifying for practice privileges under 37-50-325 who holds an ownership interest in a firm, who is responsible for supervising attest or compilation services, and who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm is responsible for all attest or compilation services.

(3) A person licensed ~~or certified~~ in this state and a person qualifying for practice privileges under 37-50-325 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm must meet the competency requirements of 37-50-203(2)(a).

(4) (a) A firm that is no longer in compliance with the ownership requirements of subsection (1)(b) shall give notice to the board within 90 days of the noncompliance.

(b) The board shall grant the firm a reasonable amount of time to reestablish compliance with the ownership requirements of subsection (1)(b). The time granted by the board to a firm to reestablish compliance may not be less than 90 days from the date the board receives the firm's notice of noncompliance.

(c) The failure of a firm to reestablish compliance with the ownership requirements of subsection (1)(b) is grounds for the board to suspend or revoke the firm's registration required by 37-50-335."

Section 16. Section 37-50-335, MCA, is amended to read:

"37-50-335. Registration of firms — exemptions. (1) ~~The following~~ *All* firms *that establish or maintain offices in this state for the practice of public accounting* shall register annually with the department~~:~~.

~~(a) those with an office in this state performing attest services and compilations;~~

~~(b) those with an office in this state that use the title "CPA" or "CPA firm"; and~~

~~(c)~~*(2)* ~~those~~ *All firms* that do not have an office in this state but perform attest services and compilations for a client having its home office in this state *shall register annually with the department*.

~~(d)~~*(3)* A fee may ~~not~~ be charged for the annual registration ~~required in subsection (1)(c)~~ *of firms*.

~~(2) A firm that undergoes a board-sanctioned compliance or peer review process and receives an acceptable, a pass, or a pass with deficiencies rating for these services and completes all remediation in its principal place of business is exempt from registration.~~

~~(3)~~*(4)* A firm that is not subject to the requirements of subsection ~~(1)~~ *(2)* may perform other professional services while using the title "CPA" or "CPA firm" in this state without registering with the department only if:

(a) it performs the services through a person with practice privileges under 37-50-325; and

(b) it can lawfully perform the services in the state where persons with practice privileges have their principal place of business.

~~(4)~~*(5)* Each ~~office established or maintained~~ *firm that establishes or maintains satellite offices* in this state for the practice of public accounting ~~in this state by a certified public accountant, by a firm of certified public accountants, by a licensed public accountant, by a firm of licensed public accountants, or by a foreign accountant recognized under 37-50-313 shall register annually with the department~~ *shall provide a list of the location of each satellite office in this state at the time of annual registration*. ~~A fee may not be charged for this registration.~~"

Section 17. Section 37-50-341, MCA, is amended to read:

"37-50-341. Initiation of proceedings — hearings and rulemaking. (1) The board may initiate proceedings under this chapter upon its own motion, upon a complaint made by the board of accountancy of another state, or upon the complaint of a person.

(2) A person licensed ~~or certified~~ in this state offering or rendering services or using a "CPA" title in another state is subject to disciplinary action in this state for an act committed in another state where the licensee would be subject to discipline for the act committed in the other state.

(3) A person licensed ~~or certified~~ in another state offering or rendering services or using a "CPA" title in this state is subject to disciplinary action in this state for an act committed in this state for which a licensee in this state would be subject to discipline.

(4) Hearings and rulemaking proceedings are governed by the Montana Administrative Procedure Act."

Section 18. Section 37-50-401, MCA, is amended to read:

"37-50-401. False statements by *certified public* accountants — misdemeanor — penalty. Any person practicing as ~~an accountant, public accountant, or~~ *a* certified public accountant in this state who, because of negligence, gross inefficiency, or willfulness, issues or permits the issuance of any false statement of the financial transactions, standing, or condition of any firm or individual business undertaking is guilty of a misdemeanor and upon conviction shall be fined not less than $500 or more than $2,000, be imprisoned for a period of not less than 90 days or more than 1 year, or both."

Section 19. Section 37-50-402, MCA, is amended to read:

"37-50-402. Privileged communications — exceptions. (1) Except by permission of the client, person, or firm engaging a certified ~~or licensed~~ public accountant or an employee of the accountant or by permission of the heirs, successors, or personal representatives of the client, person, or firm and except for the expression of opinions on financial statements, a certified public accountant~~, licensed public accountant,~~ or employee may not be required to disclose or divulge or voluntarily disclose or divulge information that the certified ~~or licensed~~ *public* accountant or an employee may have relative to and in connection with any professional services as a *certified* public accountant. The information derived from or as a result of professional services is considered confidential and privileged.

(2) The provisions of this section do not apply to the testimony or documents of a *certified* public accountant furnished pursuant to a subpoena in a court of competent jurisdiction, pursuant to a board proceeding, or in the process of any board-approved practice review program."

Section 20. Section 37-50-403, MCA, is amended to read:

"37-50-403. Nonliability — evidential privilege — application to nonprofit corporations. (1) A member of a peer review, professional standards review, or ethics review committee of a society composed of persons licensed to practice ~~the accounting profession~~ *as certified public accountants* is not liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the member after reasonable effort to obtain the facts.

(2) The proceedings and records of peer review, professional standards review, and ethics review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within that person's knowledge. However, the person may not be questioned about the person's testimony or other proceedings before the committee or about opinions or other actions of the committee or any member of the committee.

(3) This section also applies to a member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, professional standards review, or ethics review committee with respect to the profession of accounting."

Section 21. Existing license or certificate transition. (1) A person who holds a licensed public accountant license and permit to practice on July 1, 2015, issued under the laws of this state may renew the person's existing license and is not required to obtain a certified public accountant license under this chapter. The person must otherwise be subject to all provisions of this chapter.

(2) A person who holds a certified public accountant certificate or licensed public accountant license on July 1, 2015, issued under the laws of this state but who has not met the qualifications for a permit to practice must meet the accounting experience requirement set forth in this chapter and in board rule by December 31, 2017, in order to be licensed. Failure to meet the accounting experience requirement by the deadline must result in termination of the certified public accountant certificate or licensed public accountant license.

Section 22. Section 80-4-502, MCA, is amended to read:

"80-4-502. Licenses to warehouse operator — issuance — renewal — conditions precedent. (1) The department is authorized to issue or renew, upon application, a license to any warehouse operator for the conduct of a warehouse or warehouses in accordance with parts 5 and 6 of this chapter, provided the following conditions are met:

(a) Each applicant shall file and maintain satisfactory evidence of an effective policy of insurance issued by an insurance company authorized to do business in this state, insuring all agricultural commodities that are stored in the warehouse, including agricultural commodities owned by the warehouse operator. The insurance must insure the commodities for the full market value at the time of loss of the commodities against loss by fire, internal explosion, lightning, or tornado.

(b) Each warehouse must be found suitable for the proper storage of the particular agricultural commodity stored in the warehouse.

(c) A license fee must be submitted to the department as prescribed by 80-4-503.

(d) A current drawing of the warehouse, showing storage facilities and capacity of the warehouse, must be submitted to the department.

(e) A sufficient and valid bond must be filed and maintained as required by 80-4-504 and 80-4-505.

(f) (i) Except as provided in subsection (1)(f)(ii), the applicant has submitted to the department a current financial statement prepared by a ~~licensed~~ *certified public* accountant according to generally accepted accounting principles, showing that the applicant has and maintains positive working capital.

(ii) An applicant without positive working capital may provide the department with additional bonding, or an equivalent in the form of a certificate of deposit or irrevocable letter of credit, in the amount of $2,000 for each $1,000 of deficit. The bond or equivalent required in this subsection (1)(f)(ii) is in addition to the bond amount required in 80-4-505.

(g) The applicant must submit a sample warehouse receipt and subsequent revisions to the department for approval and filing.

(h) The applicant must have complied with the terms of this part and the rules prescribed thereunder.

(2) All documents required for renewal of a license must be received by the department prior to the expiration date of the warehouse license. An expired warehouse license may be reinstated by the department upon receipt of all required licensing documents and a penalty fee of $50 if the documents are filed within 30 days from the date of expiration of the warehouse license. All license applications received after the 30-day penalty period must be considered original applications and an initial license fee must be assessed according to 80-4-503."

Section 23. Section 80-4-601, MCA, is amended to read:

"80-4-601. Commodity dealer license requirements — financial responsibility. (1) A person may not engage in the business of a commodity dealer in this state without first having obtained a license issued by the department.

(2) An application for a license to engage in business as a commodity dealer must be filed with the department and must be on a form prescribed by the department.

(3) (a) A license application must include the following:

(i) the name of the applicant;

(ii) the names of the officers and directors if the applicant is a corporation;

(iii) the names of the partners if the applicant is a partnership;

(iv) the location of the principal places of business;

(v) a sufficient and valid bond as specified in 80-4-604, plus the bond specified in subsection (5)(a)(i) or (5)(a)(ii) if applicable, or as specified in subsection (5)(a)(iii);

(vi) a complete financial statement prepared by a ~~licensed~~ *certified public* accountant according to generally accepted accounting principles, setting forth the applicant's assets, liabilities, and equity; and

(vii) any other reasonable information the department finds necessary to carry out the provisions and purpose of this part.

(b) In determining the value of assets for the purposes of commodity dealer licensing:

(i) the value of the assets must be shown at original cost less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal; and

(ii) credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that the insurable property is protected against loss or damage by fire by insurance in the form of lawful policies issued by one or more insurance companies authorized to do business and subject to service of process in suits brought in this state.

(4) Except as provided in subsection (5), in order to receive and retain a commodity dealer's license, a commodity dealer shall have and maintain:

(a) equity of $50,000;

(b) positive working capital; and

(c) the bond required under 80-4-604.

(5) (a) An applicant for a commodity dealer's license:

(i) that meets the condition specified in subsection (4)(c) and has maintained positive equity but does not meet the condition specified in subsection (4)(a) shall provide the department with additional bonding in the amount of $2,000 for each $1,000 or fraction of $1,000 that the applicant's equity is less than $50,000; and

(ii) that meets the condition specified in subsection (4)(c) but does not meet the condition specified in subsection (4)(b) shall provide the department with additional bonding in the amount of $2,000 for each $1,000 or fraction of $1,000 that the applicant's current liabilities exceed the applicant's current assets; or

(iii) that cannot or chooses not to meet the requirements of subsections (4)(a), (4)(b), and (4)(c) may, at the applicant's discretion and with the consent of the department, provide the department with a bond in the amount of 110% of the value of commodities the applicant or dealer intends to purchase during the term of the license or 110% of the value of commodities the dealer purchased during the preceding 12 months, whichever is greater. The minimum bond is $20,000.

(b) An applicant or commodity dealer that provides a bond under subsection (5)(a)(iii) is exempt from the bonding requirement in 80-4-604(2).

(c) If a commodity dealer posts a bond or equivalent under subsection (5)(a)(iii) and at any time has unpaid contracts that exceed 90% of the dealer's

bond or equivalent, the dealer shall either pay off contracts of sufficient value or increase the bond amount so that the total value of the unpaid contracts is less than 90% of the bond or equivalent.

(6) The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them."

Section 24. Repealer. The following sections of the Montana Code Annotated are repealed:

37-50-303. Public accountants — licensure — qualifications and requirements.

37-50-304. Public accountants — licensure without examination of former military personnel — examination otherwise required.

37-50-310. Existing certificates sufficient.

37-50-311. Certified public accountants — waiver of examination.

37-50-312. Public accountants — waiver of examination for holders of out-of-state license.

37-50-313. Recognition of credentials of foreign accountants — restriction on title used — practice.

Section 25. Codification instruction. [Section 21] is intended to be codified as an integral part of Title 37, chapter 50, part 3, and the provisions of Title 37, chapter 50, part 3, apply to [section 21].

Section 26. Effective date. (1) Except as provided in subsection (2), [this act] is effective October 1, 2015.

(2) [Section 21] and this section are effective July 1, 2015.

Approved April 2, 2015

CHAPTER NO. 170

[HB 107]

AN ACT REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REALLOCATING CERTAIN EMPLOYER CONTRIBUTIONS FROM THE SYSTEM'S DEFINED BENEFIT PLAN TO MEMBER ACCOUNTS IN THE SYSTEM'S DEFINED CONTRIBUTION PLAN; STRIKING THE ALLOCATION OF TEMPORARY CONTRIBUTIONS TO THE DEFINED CONTRIBUTION PLAN DISABILITY FUND; ELIMINATING A PROVISION REQUIRING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO ACTUARIALLY ADJUST CERTAIN CONTRIBUTIONS BETWEEN THE SYSTEM'S DEFINED BENEFIT PLAN AND THE SYSTEM'S DEFINED CONTRIBUTION PLAN; REALLOCATING A TEMPORARY EMPLOYER CONTRIBUTION FROM PAYING GENERAL LIABILITIES TO PAYING PLAN CHOICE RATE LIABILITIES AND THEN DIRECTING THE CONTRIBUTION TO MEMBER ACCOUNTS; AMENDING SECTIONS 19-2-303, 19-2-407, 19-3-2117, AND 19-21-214, MCA; REPEALING SECTION 19-3-2121, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, employer contributions equal to 2.37% of compensation for covered members in the Public Employees' Retirement System Defined Contribution Retirement Plan (PERS-DCRP) and the Montana University

System Retirement Program (MUS-RP) are statutorily allocated to the Public Employees' Retirement System Defined Benefit Retirement Plan (PERS-DBRP) as the plan choice rate; and

WHEREAS, additional employer contributions equal to 0.37% of a member's compensation are also allocated to the plan choice rate and this percentage will increase by 0.1% each year through 2024; and

WHEREAS, the plan choice rate was established to pay the portion of the PERS-DBRP unfunded actuarial liabilities associated with PERS members who elected to join the PERS-DCRP rather than the PERS-DBRP plan and also to pay for any increase to the normal cost of benefits in the PERS-DBRP resulting from PERS members selecting the PERS-DCRP; and

WHEREAS, section 19-3-2121, MCA, requires that the plan choice rate be adjusted if it is actuarially determined to be too high or too low to pay off the associated unfunded actuarial liabilities within an established timeframe and if there is an actual change in the normal cost of benefits in the PERS-DBRP resulting from PERS members selecting the PERS-DCRP; and

WHEREAS, the normal cost of benefits in the PERS-DBRP has never significantly changed because of PERS members selecting the PERS-DCRP; and

WHEREAS, the Public Employees' Retirement Board's actuary determined that as of June 30, 2014, the unfunded actuarial liability associated with the plan choice rate is $5,903,188, and is estimated to be fully paid off within the next 2 to 3 years.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17) "Department" means the department of administration.

(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(28) "Excess earnings" means the difference, if any, between reported compensation and the limits provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average compensation.

(29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(30) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(32) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(33) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(35) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age or both age and length of service, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(36) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

(37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 ~~and that is adjusted by the board pursuant to 19-3-2121~~ to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

(39) "Regular contributions" means contributions required from members under a retirement plan.

(40) "Regular interest" means interest at rates set from time to time by the board.

(41) "Retirement" or "retired" means the status of a member who has:

(a) terminated from service; and

(b) received and accepted a retirement benefit from a retirement plan.

(42) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

(43) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

(44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(45) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(46) "Service" means employment of an employee in a position covered by a retirement system.

(47) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(48) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

(49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(52) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

(53) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection (53), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(54) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(55) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

(56) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, except as provided in subsection (56)(b), a member or the status of a member who has at least 5 years of membership service;

(b) with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10 years of membership service; or

(c) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

(57) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

(58) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

Section 2. Section 19-2-407, MCA, is amended to read:

"19-2-407. Reports. (1) As soon as practical after the close of each fiscal year, the board shall file with the governor and with the legislature pursuant to 5-11-210 a report of its work for that fiscal year. The report must include but is not limited to:

(a) a statement as to the accumulated cash and securities in the pension trust funds as certified by the state treasurer and the board of investments;

(b) a summary of the most recent information available from the actuary concerning the actuarial valuation of the assets and liabilities of each system or plan; and

(c) an analysis of how market performance is affecting actuarial funding of each of the retirement systems or plans.

(2) The report required under subsection (1) must also provide information concerning the defined contribution plan, including a description of the plan, the number of members in the plan, plan contribution rates, the total amount of money invested by members, investment performance, administrative costs and fees, ~~determinations on the plan choice rate made pursuant to 19-3-2121,~~ and

other information required under applicable governmental accounting standards and as determined by the board."

Section 3. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. Allocation of contributions and forfeitures. (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to ~~subsection (3) and adjustment by the board as provided in 19-3-2121~~ *subsections (3) and (4)*, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141;

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), the percentage specified in subsection (3) of this section of compensation must be allocated ~~in the following order:~~

~~(i)~~ to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; ~~and~~

~~(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and~~

(c) on July 1, 2013, ~~continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b),~~ *and continuing until June 30, 2015, an amount equal to* 1% of compensation must be allocated to the defined benefit plan unfunded liabilities*; and*

(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate. Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must be allocated to the member's retirement account until the additional employer contributions terminate pursuant to 19-3-316(4)(b).

(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.

(4) Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the 2.37% of compensation in subsection (2)(a)(ii) and the percentage of compensation in subsection (3), if any, must be allocated to the member's retirement account.

~~(4)~~*(5)* Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement

account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

Section 4. Section 19-21-214, MCA, is amended to read:

"19-21-214. Contributions and allocations for employees in positions covered under ~~the~~ public employees' retirement system. (1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to ~~subsection (3)~~ *subsections (3) and (4)*, of the employer's contribution *received under 19-3-316*:

(a) an amount equal to:

(i) 4.49% of compensation must be allocated to the participant's program account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); ~~and~~

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316*(4)(b)*, *an amount equal to* 0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability*;*

(c) on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must be allocated to the defined benefit plan unfunded liabilities; and

(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate. Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must be allocated to the member's retirement account until the additional employer contributions terminate pursuant to 19-3-316(4)(b).

(3) ~~The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121~~ *The percentage of compensation amount to be allocated under subsection (2)(b) must be increased by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation amount to be allocated under subsection (2)(b) must be 1.27%.*

(4) Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, amounts equal to the 2.37% of compensation in subsection (2)(a)(ii) and the percentage of compensation in subsection (2)(b), if any, must be allocated to the member's retirement account."

Section 5. Repealer. The following section of the Montana Code Annotated is repealed:

19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.

Section 6. Effective date. [This act] is effective July 1, 2015.

Section 7. Retroactive applicability. [Section 4(2)(c) and (3)] applies retroactively, within the meaning of 1-2-109, to contributions under 19-21-214(2)(b) made on and after July 1, 2013.

Approved April 2, 2015

CHAPTER NO. 171

[HB 193]

AN ACT REVISING THE PROCESSES FOR APPEALING COUNTY ZONING DECISIONS; PROVIDING THAT A DECISION OF A BOARD OF ADJUSTMENT MAY BE APPEALED TO A BOARD OF COUNTY COMMISSIONERS IF THE COMMISSIONERS ESTABLISH A PROCESS AND A DECISION BY A BOARD OF COUNTY COMMISSIONERS OR A BOARD OF ADJUSTMENT MAY BE APPEALED TO A COURT OF RECORD; AND AMENDING SECTIONS 76-2-226, 76-2-227, AND 76-2-228, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-226, MCA, is amended to read:

"76-2-226. Appeals to board of adjustment. (1) Appeals to the board of adjustment may be taken by ~~a~~ *any* person *or persons, jointly or severally,* aggrieved *by a decision of the administrative officer* or by an officer, department, board, or bureau of the county affected by any decision of the administrative officer. The appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds of the appeal.

(2) The officer from whom the appeal is taken shall transmit to the board in a timely manner all papers constituting the record upon which the action appealed was taken.

(3) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with the officer that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In that case, proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(4) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the hearing as well as due notice to the parties in interest, and decide the appeal within a reasonable time.

(5) At the hearing, a party may appear in person or by the party's attorney."

Section 2. Section 76-2-227, MCA, is amended to read:

"76-2-227. Appeals — ~~from~~ board *of county commissioners or board of adjustment* to court of record — *county commissioners may establish appeal process.* ~~(1) Any person or persons, jointly or severally, aggrieved by a decision of the board of adjustment or a taxpayer or an officer, department, board, or bureau of the county~~ *(1) (a) The board of county commissioners may establish in the zoning regulations a process for an appeal of a decision by the*

board of adjustment to the board of county commissioners by any person or persons, jointly or severally, aggrieved by a decision of the board of adjustment or an officer, department, board, or bureau of the county.

(b) The process, if established, must provide that an appeal to the board of county commissioners be initiated by presenting to the board of county commissioners a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality.

(c) The petition must be presented to the board of county commissioners within 30 days after the filing of the decision of the board of adjustment, and a final decision must be made within 60 days of receipt of the petition.

(d) The board of county commissioners may:

(i) remand the special exception to the board of adjustment;

(ii) reverse or affirm, wholly or partly, the decision of the board of adjustment; or

(iii) modify the decision of the board of adjustment.

(2) Any person or persons, jointly or severally, aggrieved by a decision of the board of county commissioners or the board of adjustment may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the *appropriate* board.

~~(2)~~*(3)* Upon presentation of a petition, the court may allow a writ of certiorari directed to the board of ~~adjustment~~ *county commissioners or the board of adjustment* to review the decision of the board ~~of adjustment~~ and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ may not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the board *of county commissioners or the board of adjustment*, and on due cause shown, grant a restraining order. The board of ~~adjustment~~ *county commissioners or the board of adjustment* may not be required to return the original papers acted upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.

~~(3)~~*(4)* If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made.

~~(4)~~*(5)* The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review."

Section 3. Section 76-2-228, MCA, is amended to read:

"76-2-228. Awarding of costs upon appeal from board decision. Costs ~~shall~~ *may* not be allowed against the board *of county commissioners or the board of adjustment* unless it ~~shall appear~~ *appears* to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from."

Approved April 2, 2015

CHAPTER NO. 172

[HB 194]

AN ACT REQUIRING A FORAGE ANALYSIS AS PART OF A MANAGEMENT PLAN BEFORE WILD BUFFALO OR BISON ARE RELEASED OR TRANSPLANTED ONTO PRIVATE OR PUBLIC LAND IN MONTANA; AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-216, MCA, is amended to read:

"87-1-216. Wild buffalo or bison as species in need of management — policy — department duties. (1) The legislature finds that significant potential exists for the spread of contagious disease to persons or livestock in Montana and for damage to persons and property by wild buffalo or bison. It is the purpose of this section:

(a) to designate publicly owned wild buffalo or bison originating from Yellowstone national park as a species requiring disease control;

(b) to designate other wild buffalo or bison as a species in need of management; and

(c) to set out specific duties for the department for management of the species.

(2) The department:

(a) is responsible for the management, including but not limited to public hunting, of wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten persons or property;

(b) shall consult and coordinate with the department of livestock on implementation of the provisions of subsection (2)(a) to the extent necessary to ensure that wild buffalo or bison remain disease-free; and

(c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock in Montana through the transmission of contagious disease. The department may, after agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following consultation with the department of livestock, adopt rules to authorize the taking of bison where and when necessary to prevent the transmission of a contagious disease.

(3) The department may adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with a contagious disease but are in need of management because of potential damage to persons or property.

(4) The department may not release, transplant, or allow wild buffalo or bison on any private or public land in Montana that has not been authorized for that use by the private or public owner.

(5) Subject to subsection (4), the department shall develop and adopt a management plan before any wild buffalo or bison under the department's

jurisdiction may be released or transplanted onto private or public land in Montana. A plan must include but is not limited to:

(a) measures to comply with any applicable animal health protocol required under Title 81, under subsection (2)(b), or by the state veterinarian;

(b) any animal identification and tracking protocol required by the department of livestock to identify the origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);

(c) animal containment measures that ensure that any animal transplanted or released on private or public land will be contained in designated areas. Containment measures must include but are not limited to:

(i) any fencing required;

(ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property where the presence of the animals is not authorized by the private or public owner;

(iii) contingency plans to expeditiously fund and construct more effective containment measures in the event of an escape; and

(iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or bison.

(d) a reasonable means of protecting public safety and emergency measures to be implemented if public safety may be threatened;

(e) a reasonable maximum carrying capacity for any proposed designated area using sound management principles, including but not limited to forage-based carrying capacity, and methods for not exceeding that carrying capacity~~; and~~ *including in years of drought or severe winters. The carrying capacity must be based on a forage analysis conducted in accordance with standards contained in the most recent natural resources conservation service field office technical guide by a range scientist who is on the staff of:*

(i) the Montana state university-Bozeman college of agriculture;

(ii) the United States natural resources conservation service; or

(iii) a technical service provider certified by either the natural resources conservation service or the society for range management.

(f) identification of long-term, stable funding sources that would be dedicated to implementing the provisions of the management plan for each designated area.

(6) When developing a management plan in accordance with subsection (5), the department shall provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the department shall respond to all public comment received and publish a full record of the proceedings at any public hearing.

(7) The department is liable for all costs incurred, including costs arising from protecting public safety, and any damage to private property that occurs as a result of the department's failure to meet the requirements of subsection (5).

(8) When adopting and implementing rules regarding the special wild buffalo or bison license issued pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to minimize the potential for spreading any contagious disease to persons or to livestock."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 173

[HB 222]

AN ACT PROHIBITING LOCAL GOVERNMENTS WITH SELF-GOVERNING POWERS FROM REQUIRING FEES AND PERMITS FOR MOVEMENT OF OVERSIZE LOADS ON CERTAIN HIGHWAYS; AND AMENDING SECTIONS 7-1-111, 7-14-4102, 7-14-4103, 7-14-4104, 61-10-121, AND 61-12-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 ~~(labor, collective bargaining for public employees, unemployment compensation, or workers' compensation)~~, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of $500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 ~~(professions and occupations)~~ as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1 ~~(streambeds)~~, or Title 87 ~~(fish and wildlife)~~;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities;

(16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States*;*

(18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit."

Section 2. No authority to require fee and permit for oversize vehicles. The authority to regulate trafficways and motor vehicles provided in this part does not include the authority to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is maintained by and under the jurisdiction of an entity other than the city or town.

Section 3. Section 7-14-4102, MCA, is amended to read:

"7-14-4102. Regulation of trafficways and public grounds. The city or town council may:

(1) *except as provided in [section 2],* regulate and prevent the use or obstruction of streets, sidewalks, and public grounds by signs, poles, wires, posting handbills or advertisements, or any obstruction;

(2) regulate and prohibit traffic and sales upon the streets, sidewalks, and public grounds;

(3) regulate or prohibit the fast driving of horses, animals, or vehicles within the city or town;

(4) provide for and regulate street crossings, curbs, and gutters;

(5) prevent horseracing or immoderate driving or riding in the streets of the city or town and regulate and provide for the hitching of all animals on the streets;

(6) regulate or prohibit coasting, skating, sliding, skateboarding, rollerblading, or tobogganing on the streets or alleys or other amusements dangerous or annoying to the inhabitants or having a tendency to frighten animals."

Section 4. Section 7-14-4103, MCA, is amended to read:

"7-14-4103. Regulation of motor vehicles. (1) ~~The~~ *Except as provided in [section 2], the* council of ~~any~~ *an* incorporated city or town ~~shall have power~~ *may*, by ordinance, ~~to~~ regulate motor vehicles and their speed within the limits of ~~such~~ *the* city or town and ~~to~~ prescribe and enforce fines and penalties for violation of ~~such~~ *the* regulations.

(2) As used in this section, the term "motor vehicles" ~~shall include all vehicles propelled by any power other than muscular power, except traction engines, road rollers, fire wagons and engines, fire department vehicles, and police patrol wagons~~ *has the meaning provided in 61-1-101, except the term does not include authorized emergency vehicles as defined in 61-8-102*."

Section 5. Section 7-14-4104, MCA, is amended to read:

"7-14-4104. Prevention of obstructions on trafficways and public grounds. ~~The~~ *Except as provided in [section 2], the* city or town council ~~has power to~~ *may* prevent the encumbering of streets, sidewalks, alleys, or public grounds with ~~carriages, wagons, lumber, firewood, or other~~ obstacles or materials."

Section 6. Section 61-10-121, MCA, is amended to read:

"61-10-121. Permits for excess size and weight — exempt from environmental review — agents. (1) (a) Upon application and with good cause shown, the department of transportation, or its agent under subsection (3), and local authorities in their respective jurisdictions may issue telephonically or in writing a special permit authorizing the applicant to operate or move a vehicle, combination of vehicles, load, object, or other thing of a size or weight exceeding the maximum specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 upon a highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible. However, only the department may issue permits for movement of a vehicle or combination of vehicles carrying built-up or reducible loads in excess of 9 feet in width or exceeding the length, height, or weight specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. This permit must be issued in the public interest. A carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. A permit may not be issued for a period greater than the period for which the GVW license is valid, including grace periods, as provided in this title. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department, purchase permits to expire with their registration. A license required by the state governs the issuance of a special permit.

(b) The department may issue to dealers in implements of husbandry and self-propelled machinery oversize permits. The permits may be transferred from unit to unit by the dealer, for the fee set forth in 61-10-124. These oversize permits may not restrict dealers in implements of husbandry and self-propelled machinery from traveling on a Saturday or Sunday and expire on December 31

of each year, with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery must be a resident of the state. A post-office box number is not a permanent address under this section.

(2) The applicant for a special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle, combination of vehicles, load, object, or other thing to be operated or moved and the particular state highways over which the vehicle, combination of vehicles, load, object, or other thing is to be moved and whether the permit is required for a single trip or for continuous operation.

(3) Issuance of a permit pursuant to this section is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when existing roads through existing rights-of-way are used.

(4) The department may enter into a contract with a private party to act as an agent of the department for the purpose of issuing, in writing, a special permit allowed under this section.

(5) This section does not authorize a local authority to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority."

Section 7. Section 61-12-101, MCA, is amended to read:

"61-12-101. Powers of local authorities to regulate traffic. *(1)* The provisions of chapters 8 and 9 do not prevent local authorities with respect to sidewalks, streets, and highways under their jurisdiction and within the reasonable exercise of the police power from:

~~(1)~~*(a)* regulating the standing or parking of vehicles;

~~(2)~~*(b)* regulating the traffic by means of police officers or traffic control devices;

~~(3)~~*(c)* regulating or prohibiting processions or assemblages on the highways;

~~(4)~~*(d)* designating particular highways as one-way highways and requiring that all vehicles on those highways be moved in one specific direction;

~~(5)~~*(e)* regulating the speed of vehicles in public parks;

~~(6)~~*(f)* designating any highway as a through highway, as defined in 61-8-341, and requiring that all vehicles stop before entering or crossing a through highway and designating any intersection, as defined in 61-8-102, as a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections;

~~(7)~~*(g)* restricting the use of highways as authorized in 61-10-128(2);

~~(8)~~*(h)* regulating the operation of bicycles, as defined in 61-8-102, and requiring the registration and licensing of bicycles, including requiring a registration fee;

~~(9)~~*(i)* regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

~~(10)~~*(j)* altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8;

~~(11)~~*(k)* regulating the operating of a vehicle by a person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree that renders the person incapable of safely operating a vehicle within the incorporated limits of any city or town;

~~(12)~~*(l)* regulating or prohibiting a person who is under the influence of intoxicating liquor from operating or being in actual physical control of a vehicle within the incorporated limits of a city or town;

~~(13)~~*(m)* regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for the safety of persons or property within the incorporated limits of a city or town;

~~(14)~~*(n)* enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic, pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and enforcing the ordinances;

~~(15)~~*(o)* regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and highways; and

~~(16)~~*(p)* regulating the operation of golf carts on streets and highways.

(2) The powers of a local authority to regulate traffic do not include the power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority."

Section 8. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 7, chapter 14, part 41, and the provisions of Title 7, chapter 14, part 41, apply to [section 2].

Approved April 2, 2015

CHAPTER NO. 174

[HB 227]

AN ACT ADOPTING THE 2008 UNIFORM FAMILY SUPPORT ACT; AMENDING SECTIONS 40-5-103, 40-5-143, 40-5-144, 40-5-145, 40-5-146, 40-5-147, 40-5-148, 40-5-149, 40-5-150, 40-5-151, 40-5-152, 40-5-153, 40-5-154, 40-5-157, 40-5-158, 40-5-159, 40-5-160, 40-5-161, 40-5-162, 40-5-163, 40-5-164, 40-5-165, 40-5-166, 40-5-171, 40-5-172, 40-5-173, 40-5-174, 40-5-175, 40-5-176, 40-5-177, 40-5-178, 40-5-179, 40-5-180, 40-5-181, 40-5-183, 40-5-184, 40-5-185, 40-5-186, 40-5-187, 40-5-188, 40-5-189, 40-5-190, 40-5-191, 40-5-192, 40-5-193, 40-5-194, 40-5-195, 40-5-196, 40-5-197, 40-5-272, AND 40-5-923, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Application of part to resident of foreign country and foreign support proceeding. (1) A tribunal of this state shall apply 40-5-101 through 40-5-152 and 40-5-157 through 40-5-196 and, as applicable, [sections 6 through 18] to a support proceeding involving:

(a) a foreign support order;

(b) a foreign tribunal; or

(c) an obligee, obligor, or child residing in a foreign country.

(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of 40-5-101 through 40-5-152 and 40-5-157 through 40-5-196.

(3) [Sections 6 through 18] apply only to a support proceeding under the convention. In such a proceeding, if a provision of [sections 6 through 18] is

inconsistent with 40-5-101 through 40-5-152 and 40-5-157 through 40-5-196, [sections 6 through 18] control.

Section 2. Duration of personal jurisdiction. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this part or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by 40-5-149, 40-5-150, and [section 3].

Section 3. Continuing, exclusive jurisdiction to modify spousal support order. (1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(b) a responding tribunal to enforce or modify its own spousal support order.

Section 4. Jurisdiction to modify child support order of foreign country. (1) Except as otherwise provided in [section 16], if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to 40-5-194 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

Section 5. Procedure to register child support order of foreign country for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under 40-5-184 through 40-5-191 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

Section 6. Definitions. In [sections 6 through 18]:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in 40-5-103(5)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in 40-5-103(5)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in 40-5-103(5)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) may be reviewed and modified by a foreign tribunal; and

(b) includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the secretary of the United States department of health and human services.

Section 7. Applicability. [Sections 6 through 18] apply only to a support proceeding under the convention. In such a proceeding, if a provision of [sections 6 through 18] is inconsistent with 40-5-101 through 40-5-152 and 40-5-157 through 40-5-196, [sections 6 through 18] control.

Section 8. Relationship of department of public health and human services to United States central authority. The department of public health and human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Section 9. Initiation by department of public health and human services of support proceeding under convention. (1) In a support proceeding under [sections 6 through 18], the department of public health and human services of this state shall:

(a) transmit and receive applications; and

(b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

(a) recognition or recognition and enforcement of a foreign support order;

(b) enforcement of a support order issued or recognized in this state;

(c) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(d) establishment of a support order if recognition of a foreign support order is refused under [section 13(2)(b), (2)(d), or (2)(i)];

(e) modification of a support order of a tribunal of this state; and

(f) modification of a support order of a tribunal of another state or foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) modification of a support order of a tribunal of this state; and

(c) modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Section 10. Direct request. (1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, [sections 11 through 18] apply.

(3) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(a) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(4) A petitioner filing a direct request is not entitled to assistance from the department of public health and human services.

(5) [Sections 6 through 18] do not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Section 11. Registration of convention support order. (1) Except as otherwise provided in [sections 6 through 18], a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in 40-5-184 through 40-5-195 and [sections 4 and 5].

(2) Notwithstanding 40-5-171 and 40-5-185(1), a request for registration of a convention support order must be accompanied by:

(a) a complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international law;

(b) a record stating that the support order is enforceable in the issuing country;

(c) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(d) a record showing the amount of arrears, if any, and the date the amount was calculated;

(e) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(f) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(3) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(4) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under [section 12] only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

Section 12. Contest of registered convention support order. (1) Except as otherwise provided in [sections 6 through 18], 40-5-188 through 40-5-191 apply to a contest of a registered convention support order.

(2) A party contesting a registered convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the content must be filed not later than 60 days after notice of the registration.

(3) If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (2), the order is enforceable.

(4) A contest of a registered convention support order may be based only on grounds set forth in [section 13]. The contesting party bears the burden of proof.

(5) In a contest of a registered convention support order, a tribunal of this state:

(a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(b) may not review the merits of the order.

(6) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(7) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

Section 13. Recognition and enforcement of registered convention support order. (1) Except as otherwise provided in subsection (2), a tribunal of this state shall recognize and enforce a registered convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) the issuing tribunal lacked personal jurisdiction consistent with 40-5-145;

(c) the order is not enforceable in the issuing country;

(d) the order was obtained by fraud in connection with a matter of procedure;

(e) a record transmitted in accordance with [section 11] lacks authenticity or integrity;

(f) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this part in this state;

(h) payment, to the extent alleged arrears have been paid in whole or in part;

(i) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) the order was made in violation of [section 16].

(3) If a tribunal of this state does not recognize a convention support order under subsection (2)(b), (2)(d), or (2)(i):

(a) the tribunal may not dismiss the proceedings without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(b) the department of public health and human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under [section 9].

Section 14. Partial enforcement. If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

Section 15. Foreign support agreement. (1) Except as otherwise provided in subsections (3) and (4), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(2) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(a) a complete text of the foreign support agreement; and

(b) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(a) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) the agreement was obtained by fraud or falsification;

(c) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this part in this state; or

(d) the record submitted under subsection (2) lacks authenticity or integrity.

(5) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Section 16. Modification of convention child support order. (1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(a) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(b) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, [section 13(3)] applies.

Section 17. Personal information — limit on use. Personal information gathered or transmitted under [sections 6 through 18] may be used only for the purposes for which it was gathered or transmitted.

Section 18. Record in original language — English translation. A record filed with a tribunal of this state under [sections 6 through 18] must be in the original language and, if not in English, must be accompanied by an English translation.

Section 19. Section 40-5-103, MCA, is amended to read:

"40-5-103. Definitions. *In this part:*

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a child support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state *or foreign country*.

(3) "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at The Hague on November 23, 2007.

~~(3)~~*(4)* "Duty of support"~~:~~

~~(a)~~ means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse~~;~~*,* ~~and~~

~~(b) includes~~ *including* an unsatisfied obligation to provide support.

~~(4) "Governor" includes an individual performing the functions of governor or the executive authority of any state covered by this part.~~

(5) "Foreign country" means a country, including a political subdivision of a country, other than the United States, that authorizes the issuance of support orders and:

(a) that has been declared under the law of the United States to be a foreign reciprocating country;

(b) that has established a reciprocal arrangement for child support with this state as provided in 40-5-166;

(c) that has enacted a law or established procedures for the issuance and enforcement of support orders that are substantially similar to the procedures under this part; or

(d) in which the convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country that is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

~~(5)~~*(8)* "Home state" means the state *or foreign country* in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state *or foreign country* in which the child lived from birth with ~~a parent or person acting as parent~~ *any of them*. A period of temporary absence of ~~a parent or person acting as parent~~ *any of them* is counted as part of the 6-month or other period.

~~(6)~~*(9)* "Income" includes~~:~~

~~(a)~~ earnings or other periodic entitlements to money from any source~~;~~ and

~~(b)~~ any other property subject to withholding for support under the law of this state.

~~(7)~~*(10)* "Income-withholding order" means an order or other legal process directed to an obligor's employer, as provided in Title 40, chapter 5, parts 3 and 4, or by a tribunal of another state to withhold support from the income of the obligor.

~~(8) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state pursuant to this part or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts or pursuant to a proceeding initiated by the department of public health and human services under 40-5-263.~~

~~(9)~~*(11)* "Initiating tribunal" means the ~~authorized~~ tribunal ~~in an initiating~~ *of a* state *or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country*.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

~~(10)~~*(13)* "Issuing state" means the state in which a tribunal issues a support order or ~~renders~~ a judgment determining parentage *of a child*.

~~(11)~~*(14)* "Issuing tribunal" means the tribunal *of a state or foreign country* that issues a support order or ~~renders~~ a judgment determining parentage *of a child*.

~~(12)~~*(15)* "Law" includes decisional and statutory law and rules and regulations having the force of law.

~~(13)~~*(16)* "Obligee" means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order ~~has been issued~~ or a judgment determining parentage *of a child* has been ~~rendered~~ *issued*;

(b) a *foreign country,* state, or political subdivision *of a state* to which the rights under a duty of support or a support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee *in place of child support*; ~~or~~

(c) an individual seeking a judgment determining parentage of that individual's child*; or*

(d) a person that is a creditor in a proceeding under [sections 6 through 18].

~~(14)~~*(17)* "Obligor" means an individual or the estate of a decedent *that*:

(a) ~~who~~ owes or is alleged to owe a duty of support;

(b) ~~who~~ is alleged but has not been adjudicated to be a parent of a child; ~~or~~

(c) ~~who~~ is liable under a support order*; or*

(d) is a debtor in a proceeding under [sections 6 through 18].

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(15)~~*(21)* "Register" means to file *in a tribunal of this state* a support order or judgment determining parentage ~~in the registry of foreign support orders~~ *of a child issued in another state or foreign country*.

~~(16)~~*(22)* "Registering tribunal" means a tribunal in which a support order *or a judgment determining parentage of a child* is registered.

~~(17)~~*(23)* "Responding state" means a state in which a ~~proceeding~~ *petition or comparable pleading for support or to determine parentage of a child* is filed or to which a ~~proceeding~~ *petition or comparable pleading* is forwarded for filing from ~~an initiating~~ *another* state *or foreign country* ~~under this part or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts or under a proceeding initiated by the department of public health and human services under 40-5-263~~.

~~(18)~~*(24)* "Responding tribunal" means the authorized tribunal in a responding state *or foreign country*.

~~(19)~~*(25)* "Spousal support order" means a support order for a spouse or former spouse of the obligor.

~~(20)~~*(26)* "State" means a state of the United States, the District of Columbia, Puerto Rico, the *United States* Virgin Islands, or any territory or insular possession ~~subject to~~ *under* the jurisdiction of the United States. The term ~~"state"~~ includes an Indian *nation or* tribe ~~or a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act~~.

~~(21) (a)~~*(27)* "Support enforcement agency" means a public official*, governmental entity,* or *private* agency authorized to ~~seek~~:

~~(i)~~*(a) seek* enforcement of support orders or laws relating to the duty of support;

~~(ii)~~*(b) seek* establishment or modification of child support;

~~(iii)~~*(c)* ~~a~~ *request* determination of parentage *of a child*; ~~or~~

~~(iv)~~*(d) attempt* to locate obligors or their assets*; or*

(e) request determination of the controlling child support order.

~~(b) Support enforcement agency includes:~~

~~(i) in cases brought under Title IV-D of the Social Security Act, the department of public health and human services; and~~

~~(ii) in all other cases, the prosecutor.~~

~~(22)~~*(28) (a)* "Support order" means a judgment, decree, ~~or~~ order, *decision, or directive,* whether temporary, final, or subject to modification, ~~that:~~ *issued in a state or foreign country*

~~(a) is~~ for the benefit of a child, a spouse*,* or a former spouse~~, or a state or political subdivision;~~

~~(b)~~ *that* provides for monetary support, health care, arrearages, *retroactive support,* or reimbursement~~; and~~ *for financial assistance provided to an individual obligee in place of child support.*

~~(c)~~*(b) The term* may include related costs and fees, interest, income withholding, *automatic adjustment, reasonable* attorney fees, and other relief.

~~(23)~~*(29)* "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage *of a child*."

Section 20. Section 40-5-143, MCA, is amended to read:

"40-5-143. ~~Tribunals of this state~~ *State tribunals and support enforcement agency.* *(1)* The district courts and the department of public health and human services are the tribunals of this state.

(2) The department of public health and human services provided for in 2-15-2201 is the support enforcement agency of this state."

Section 21. Section 40-5-144, MCA, is amended to read:

"40-5-144. Remedies cumulative. *(1)* Remedies provided ~~in~~ *by* this part are cumulative and do not affect the availability of remedies under other law *or the recognition of a foreign support order on the basis of comity*.

(2) This part does not:

(a) provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(b) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this part."

Section 22. Section 40-5-145, MCA, is amended to read:

"40-5-145. Bases for jurisdiction over nonresident. *(1)* In a proceeding to establish~~,~~ *or* enforce~~, or modify~~ a support order or to determine parentage *of a child*, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

~~(1)~~*(a)* the individual is personally served with notice within this state;

~~(2)~~*(b)* the individual submits to the jurisdiction of this state by consent *in a record*, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

~~(3)~~*(c)* the individual resided with the child in this state;

~~(4)~~*(d)* the individual resided in this state and provided prenatal expenses or support for the child;

~~(5)~~*(e)* the child resides in this state as a result of the acts or directives of the individual;

~~(6)~~*(f)* the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; ~~or~~

(g) the individual asserted parentage of a child in the putative father registry maintained in this state by the department of public health and human services; or

~~(7)~~*(h)* there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) The bases of personal jurisdiction set forth in subsection (1) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of 40-5-194 are met or, in the case of a foreign support order, unless the requirements of [section 4] are met."

Section 23. Section 40-5-146, MCA, is amended to read:

"40-5-146. ~~Procedure when exercising jurisdiction over~~ *Application of part to* nonresident *subject to personal jurisdiction.* A tribunal of this state exercising personal jurisdiction over a nonresident ~~pursuant to 40-5-145 may apply 40-5-175 to~~ *in a proceeding under this part, under the law of this state relating to a support order, or recognizing a foreign support order may* receive evidence from ~~another state and 40-5-177 to~~ *outside this state pursuant to 40-5-175, communicate with a tribunal outside this state pursuant to 40-5-176, and* obtain discovery through a tribunal ~~of another state~~ *outside this state pursuant to 40-5-177.* In all other respects, ~~40-5-158~~ *40-5-157* through 40-5-166, 40-5-170 through 40-5-180, ~~and~~ 40-5-183 through ~~40-5-186~~ *40-5-195, and [sections 4 and 5]* do not apply and the tribunal shall apply the procedural and substantive law of this state~~, including the rules on choice of law other than those established by this part~~."

Section 24. Section 40-5-147, MCA, is amended to read:

"40-5-147. Initiating and responding tribunal of ~~this~~ state. Under this part, a tribunal of this state may serve as an initiating tribunal to forward proceedings to *a tribunal of* another state and as a responding tribunal for proceedings initiated in another state *or a foreign country*."

Section 25. Section 40-5-148, MCA, is amended to read:

"40-5-148. Simultaneous proceedings ~~in another state~~. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a ~~petition or comparable~~ pleading is filed in another state *or a foreign country* only if:

(a) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state *or the foreign country* for filing a responsive pleading challenging the exercise of jurisdiction by the other state *or the foreign country*;

(b) the contesting party timely challenges the exercise of jurisdiction in the other state *or the foreign country*; and

(c) if relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state *or a foreign country* if:

(a) the petition or comparable pleading in the other state *or foreign country* is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) the contesting party timely challenges the exercise of jurisdiction in this state; and

(c) if relevant, the other state *or foreign country* is the home state of the child."

Section 26. Section 40-5-149, MCA, is amended to read:

"40-5-149. Continuing, exclusive jurisdiction *to modify a child support order*. (1) A tribunal of this state ~~issuing~~ *that has issued* a *child* support order consistent with the law of this state has *and shall exercise* continuing, exclusive jurisdiction ~~over a~~ *to modify its* child support order *if the order is the controlling order and*:

(a) ~~as long as this state remains~~ *at the time of the filing of a request for modification this state is* the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) ~~until all of the parties who are individuals have filed written consent with~~ *even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that* the tribunal of this state ~~for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction~~ *may continue to exercise jurisdiction to modify its order*.

(2) A tribunal of this state ~~issuing~~ *that has issued* a child support order consistent with the law of this state may not exercise ~~its~~ continuing*, exclusive* jurisdiction to modify the order if*:* ~~the order has been modified by a tribunal of another state pursuant to this part or a law substantially similar to this part~~

(a) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) its order is not the controlling order.

(3) If *a tribunal of another state has issued* a child support order ~~of this state is modified by a tribunal of another state~~ pursuant to ~~this part~~ *the Uniform Interstate Family Support Act* or a law substantially similar to ~~this part,~~ *that act that modifies a child support order of* a tribunal of this state*, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state* ~~loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state and may only:~~

~~(a) enforce the order that was modified as to amounts accruing before the modification;~~

~~(b) enforce nonmodifiable aspects of that order; and~~

~~(c) provide other appropriate relief for violations of that order that occurred before the effective date of the modification~~.

(4) A tribunal of this state ~~shall recognize the~~ *that lacks* continuing, exclusive jurisdiction ~~of~~ *to modify a child support order may serve as an initiating tribunal to request* a tribunal of another state ~~that has issued a child support order pursuant to this part or a law substantially similar to this part~~ *to modify a support order issued in that state*.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

~~(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.~~"

Section 27. Section 40-5-150, MCA, is amended to read:

"40-5-150. ~~Enforcement and modification of~~ *Continuing jurisdiction to enforce child* support order ~~by tribunal having continuing jurisdiction~~. (1) A tribunal of this state *that has issued a child support order consistent with the law of this state* may serve as an initiating tribunal to request a tribunal of another state to enforce ~~or modify a support order issued in that state~~*:*

(a) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(b) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(2) A tribunal of this state ~~that has~~ *having* continuing~~, exclusive~~ jurisdiction over a support order may act as a responding tribunal to enforce ~~or modify~~ the order ~~of another state~~. ~~If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply 40-5-175 to receive evidence from another state and 40-5-177 to obtain discovery through a tribunal of another state.~~

~~(3) A tribunal of this state that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.~~"

Section 28. Section 40-5-151, MCA, is amended to read:

"40-5-151. ~~Recognition~~ *Determination* of *controlling* child support ~~orders~~ *order*. (1) If a proceeding is brought under this part and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

(2) If a proceeding is brought under this part and two or more child support orders have been issued by tribunals of this state, ~~or~~ another state*, or a foreign country* with regard to the same obligor and *same* child, a tribunal of this state *having personal jurisdiction over both the obligor and individual obligee* shall apply the following rules ~~in determining~~ *and by order shall determine* which order ~~to recognize for purposes of continuing, exclusive jurisdiction~~ *controls and must be recognized*:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal controls ~~and must be recognized~~.

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this part~~,~~*:*

(i) an order issued by a tribunal in the current home state of the child controls ~~and must be recognized. However,~~*; or*

(ii) if an order has not been issued in the current home state of the child, the order most recently issued controls ~~and must be recognized~~.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal of this state ~~having jurisdiction over the parties~~ shall issue a child support order, which controls ~~and must be recognized~~.

(3) If two or more child support orders have been issued for the same obligor and *same* child, ~~and if the obligor or the individual obligee resides in this state, a party may request~~ *upon request of a party who is an individual or that is a support enforcement agency,* a tribunal of this state ~~to~~ *having personal jurisdiction over both the obligor and the obligee who is an individual shall* determine which order controls ~~and must be recognized~~ under subsection (2). *The request may be filed with a registration for enforcement or registration for modification pursuant to 40-5-184 through 40-5-195 and [sections 4 and 5] or may be filed as a separate proceeding.*

(4) ~~The~~ *A* request *to determine which is the controlling order* must be accompanied by a ~~certified~~ copy of ~~each~~ *every child* support order in effect *and the applicable record of payments*. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

~~(4)~~*(5)* The tribunal that issued the controlling order under ~~subsections (1) through (3) is the tribunal that~~ *subsection (1), (2), or (3)* has continuing~~,~~ ~~exclusive~~ jurisdiction ~~under~~ *to the extent provided in* 40-5-149 *or 40-5-150.*

~~(5)~~*(6)* A tribunal of this state that determines~~,~~ by order~~, the identity of~~ *which is* the controlling order under subsection (2)(a)*,* ~~or~~ (2)(b)*, or (3)* or that issues a new controlling ~~child support~~ order under subsection (2)(c) shall state in that order*:*

(a) the basis upon which the tribunal made its determination*;*

(b) the amount of prospective support, if any; and

(c) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by 40-5-181.

~~(6)~~*(7)* Within 30 days after issuance of ~~the~~ *an* order determining ~~the identity of~~ *which is* the controlling order, the party obtaining the order shall file a certified copy of it ~~with~~ *in* each tribunal that issued or registered an earlier order of child support. A party ~~who obtains~~ *or support enforcement agency obtaining* the order ~~and~~ *that* fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this part."

Section 29. Section 40-5-152, MCA, is amended to read:

"40-5-152. ~~Multiple child~~ *Child* support orders for two or more obligees. In responding to ~~multiple~~ registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which ~~orders~~ was issued by a tribunal of another state *or a foreign country*, a tribunal of this state shall enforce those orders in the same manner as if the ~~multiple~~ orders had been issued by a tribunal of this state."

Section 30. Section 40-5-153, MCA, is amended to read:

"40-5-153. Grounds for rendition. *(1) For purposes of 40-5-154 and this section, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this part.*

~~(1)~~*(2)* The governor of this state may:

(a) demand ~~of~~ *that* the governor of another state ~~the~~ surrender ~~of~~ an individual found in the other state who is charged criminally in this state with ~~failing~~ *having failed* to provide for the support of an obligee; or

(b) on *the* demand ~~by~~ *of* the governor of another state, surrender an individual found in this state who is charged criminally in ~~that~~ *the other* state with ~~failing~~ *having failed* to provide for the support of an obligee.

~~(2)~~*(3)* A provision for extradition of individuals ~~that is~~ not inconsistent with this part applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from ~~the demanding state~~ *there*."

Section 31. Section 40-5-154, MCA, is amended to read:

"40-5-154. Conditions of rendition. (1) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of ~~a child or to pay support to~~ an obligee, the governor of this state may require ~~any~~ *a* prosecutor of this state to demonstrate~~:~~

~~(a)~~ that at least 60 days previously~~,~~ the obligee had initiated proceedings for support pursuant to this part~~;~~ or

~~(b)~~ that the proceeding would be of no avail.

(2) If, under this part or a law substantially similar to this part, ~~the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,~~ the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or ~~to pay support to an obligee~~ *other individual to whom a duty of support is owed*, the governor ~~of this state~~ may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor ~~of this state~~ may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor ~~of this state~~ may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor ~~of this state~~ may decline to honor the demand if the individual is complying with the support order."

Section 32. Section 40-5-157, MCA, is amended to read:

"40-5-157. ~~Income-withholding~~ *Employer receipt of income-withholding* orders of another state — employer compliance — employer immunity — penalties for noncompliance — *contest by obligor.* (1) An income-withholding order issued in another state may be sent *by or on behalf of the obligee or by the support enforcement agency* to the person ~~or entity~~ defined as the obligor's employer under the income-withholding laws of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

(2) (a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as *otherwise* provided ~~by~~ *in* subsections (4) and (5), the employer shall withhold ~~the funds~~ and distribute the funds as directed in the income-withholding order by complying with the terms of the order that specify:

(a) the duration and ~~the~~ amount of periodic payments of current child support, stated as a sum certain;

(b) the person ~~or agency~~ designated to receive payments and the address to which the payments are to be forwarded;

(c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ~~by~~ ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) the amount of periodic payments of ~~arrears~~ *arrearages* and interest on ~~arrears~~ *arrearages*, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) the employer's fee for processing an income-withholding order;

(b) the maximum amount permitted to be withheld from the obligor's income; and

(c) the times within which the employer must implement the income-withholding order and forward the child support payment.

(5) ~~An~~ *If an* obligor's employer ~~who~~ receives ~~multiple~~ *two or more* income-withholding orders with respect to the earnings of the *same* obligor*, the employer* satisfies the terms of the ~~multiple~~ orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for ~~multiple~~ *two or more* child support obligees.

(6) An employer ~~who~~ *that* complies with an income-withholding order issued in another state in accordance with this section is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

(7) An employer ~~who~~ *that* willfully fails to comply with an income-withholding order issued ~~by~~ *in* another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

(8) (a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state *by registering the order in a tribunal of this state and filing a contest to that order as provided in 40-5-184 through 40-5-194 and [sections 4 and 5], or otherwise contesting the order* in the same manner as if the order had been issued by a tribunal of this state. ~~Choice of law under 40-5-187 applies to the contest.~~

(b) The obligor shall give notice of the contest to:

(i) a support enforcement agency providing services to the obligee;

(ii) each employer that has directly received an income-withholding order *relating to the obligor*; and

(iii) the person ~~or agency~~ designated to receive payments in the income-withholding order or, if ~~a~~ *no* person ~~or agency~~ is ~~not~~ designated, to the obligee."

Section 33. Section 40-5-158, MCA, is amended to read:

"40-5-158. Proceedings under this part. (1) Except as otherwise provided in this part, 40-5-158 through 40-5-166, 40-5-170 through 40-5-178, ~~40-5-180,~~ and 40-5-183 apply to all proceedings under this part.

~~(2) This part provides for the following proceedings:~~

~~(a) establishment of an order for spousal support or child support pursuant to 40-5-179;~~

~~(b) enforcement of a support order and income-withholding order of another state without registration;~~

~~(c) registration of an order for spousal support or child support of another state for enforcement pursuant to 40-5-184 through 40-5-195;~~

~~(d) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to 40-5-147 through 40-5-150;~~

~~(e) registration of an order for child support of another state for modification pursuant to 40-5-184 through 40-5-195;~~

~~(f) determination of parentage pursuant to 40-5-196; and~~

~~(g) assertion of jurisdiction over nonresidents pursuant to 40-5-145 and 40-5-146.~~

~~(3)~~*(2)* An individual *petitioner* or a support enforcement agency may ~~commence~~ *initiate* a proceeding authorized under this part by filing a petition in an ~~appropriate~~ initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state *or a foreign country* that has or can obtain personal jurisdiction over the respondent."

Section 34. Section 40-5-159, MCA, is amended to read:

"40-5-159. ~~Action~~ *Proceeding* by ~~a~~ minor parent. A minor parent or ~~the~~ *a* guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child."

Section 35. Section 40-5-160, MCA, is amended to read:

"40-5-160. Application of law of this state. Except as otherwise provided ~~by~~ *in* this part, a responding tribunal of this state *shall*:

(1) ~~shall~~ apply the procedural and substantive law~~, including the rules on choice of law,~~ generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) ~~shall~~ determine the duty of support and the amount payable in accordance with the law and support guidelines of this state."

Section 36. Section 40-5-161, MCA, is amended to read:

"40-5-161. Duties of initiating tribunal. (1) Upon the filing of a petition authorized by this part, an initiating tribunal *of this state* shall forward ~~three copies of~~ the petition and its accompanying documents:

(a) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) if the identity of the responding tribunal is unknown, to the state information agency of the responding state, with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If ~~a responding state has not enacted the Uniform Interstate Family Support Act or another law or procedure substantially similar to that act~~ *requested by the responding tribunal*, a tribunal of this state ~~may~~ *shall* issue a

certificate or other ~~documents~~ *document* and make findings required by the law ~~or procedure~~ of the responding state. If the responding ~~state~~ *tribunal* is *in* a foreign ~~jurisdiction~~ *country*, *upon request* the tribunal ~~may~~ *of this state shall* specify the amount of support sought*, convert that amount into the equivalent amount in the foreign currency under the applicable official or market exchange rate as publicly reported,* and provide *any* other documents necessary to satisfy the requirements of the responding ~~state~~ *foreign tribunal*."

Section 37. Section 40-5-162, MCA, is amended to read:

"40-5-162. Duties and powers of responding tribunal. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to 40-5-158~~(3)~~*(2)*, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent ~~otherwise authorized by law~~ *not prohibited by other law*, may do one or more of the following:

(a) ~~issue~~ *establish* or enforce a support order, modify a child support order, *determine the controlling child support order,* or ~~render a judgment to~~ determine parentage *of a child*;

(b) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) order income withholding;

(d) determine the amount of any arrearages and specify a method of payment;

(e) enforce orders by ~~use of~~ civil or criminal contempt, or both;

(f) set aside property for satisfaction of the support order;

(g) place liens and order execution on the obligor's property;

(h) order an obligor to keep the tribunal informed of the obligor's current residential address, *electronic mail address,* telephone number, employer, address of employment, and telephone number at the place of employment;

(i) issue a bench warrant for an obligor who has failed~~,~~ after proper notice~~,~~ to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(j) order the obligor to seek appropriate employment by specified methods;

(k) award reasonable attorney fees and other fees and costs; and

(l) grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this part or in the documents accompanying the order the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this part upon ~~a party's~~ compliance *by a party* with *provisions for* visitation ~~provisions~~.

(5) If a responding tribunal of this state issues an order under this part, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) ~~The department of public health and human services is the responding tribunal for receipt of a petition or comparable proceedings from an initiating state as provided in 40-5-263. In all other cases, the district court is the responding tribunal.~~ *If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding*

tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported."

Section 38. Section 40-5-163, MCA, is amended to read:

"40-5-163. Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, ~~it~~ *the tribunal* shall forward the pleading and accompanying documents to an appropriate tribunal ~~in~~ *of* this state or another state and notify the petitioner where and when the pleading was sent."

Section 39. Section 40-5-164, MCA, is amended to read:

"40-5-164. Duties of support enforcement agency. (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this part.

(2) A support enforcement agency that is providing services to the petitioner shall~~, as appropriate~~:

(a) take all steps necessary to enable an appropriate tribunal ~~in~~ *of* this state*,* ~~or~~ another state*, or a foreign country* to obtain jurisdiction over the respondent;

(b) request an appropriate tribunal to set a date, time, and place for a hearing;

(c) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of ~~a written~~ notice *in a record* from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a ~~written~~ communication *in a record* from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) to ensure that the order to be registered is the controlling order; or

(b) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to 40-5-178.

~~(3)~~*(6)* This part does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

~~(4) For purposes of this part, the department of public health and human services is the support enforcement agency for this state as provided in Title 40,~~

~~chapter 5, parts 2, 4, and 6. All the provisions of this part must be interpreted as supplemental to and cumulative with the department's powers and duties under those provisions. In all other cases, the county attorney in the county in which an action must be filed is the support enforcement agency.~~"

Section 40. Section 40-5-165, MCA, is amended to read:

"40-5-165. Duties of state information agency. (1) The department of public health and human services is designated as the state information agency under this part.

(2) The ~~department~~ *state information agency* shall:

(a) compile and maintain a current list, including addresses, of the tribunals in this state that have jurisdiction under this part and ~~of~~ any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) maintain a register of *names and addresses of* tribunals and support enforcement agencies ~~of~~ *received from* other states;

(c) forward to the appropriate tribunal in the place in this state in which the ~~individual~~ obligee *who is an individual* or the obligor resides or in which the obligor's property is believed to be located all documents concerning a proceeding under this part received from ~~an initiating tribunal or the state information agency of the initiating state~~ *another state or foreign country*; and

(d) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security."

Section 41. Section 40-5-166, MCA, is amended to read:

"40-5-166. Duty of attorney general. *(1)* If the attorney general determines that a support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this part or may provide those services directly to the individual.

(2) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination."

Section 42. Section 40-5-171, MCA, is amended to read:

"40-5-171. Pleadings and accompanying documents. (1) ~~A~~ *In a proceeding under this part, a* petitioner ~~who seeks~~ *seeking* to establish ~~or~~ *a support order, to determine parentage of a child, or to register and* modify a support order ~~or to determine parentage in a proceeding under this part shall verify the~~ *of a tribunal of another state or a foreign country must file a* petition. Unless otherwise ordered under 40-5-172, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee *or the parent and alleged parent* and the name, sex, residential address, social security number, and date of birth of each child for ~~whom~~ *whose benefit* support is sought *or whose parentage is to be determined*. ~~The~~ *Unless filed at the time of registration, the* petition must be accompanied by a ~~certified~~ copy of any support order ~~in effect~~ *known to have been issued by another tribunal*. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency."

Section 43. Section 40-5-172, MCA, is amended to read:

"40-5-172. Nondisclosure of information in exceptional circumstances. ~~Upon a finding, which may be made ex parte,~~ *If a party alleges in an affidavit or pleading under oath* that the health, safety, or liberty of a party or child would be ~~unreasonably put at risk~~ *jeopardized* by ~~the~~ disclosure of *specific* identifying information ~~or if an existing order so provides, a~~, *that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the* tribunal ~~shall~~ *may* order ~~that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part~~ *disclosure of information that the tribunal determines to be in the interest of justice*."

Section 44. Section 40-5-173, MCA, is amended to read:

"40-5-173. Costs and fees. (1) The petitioner may not be required to pay a filing fee or other costs ~~to initiate a proceeding under this part~~.

(2) If an obligee prevails, a responding tribunal *of this state* may assess against an obligor ~~the~~ filing fees, reasonable attorney fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. ~~Except as provided by other law, the~~ *The* tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state *or foreign country, except as provided by other law*. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of ~~current~~ support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under 40-5-184 through 40-5-195 *and [sections 4 and 5]*, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change."

Section 45. Section 40-5-174, MCA, is amended to read:

"40-5-174. Nonparentage as defense — ~~limitation~~. A party whose parentage of a child has been previously determined *by or* pursuant to law may not plead nonparentage as a defense to a proceeding under this part."

Section 46. Section 40-5-175, MCA, is amended to read:

"40-5-175. Special rules of evidence and procedure. (1) The physical presence of ~~the petitioner in a responding~~ *a nonresident party who is an individual in a* tribunal of this state is not required for the establishment, enforcement, or modification of a support order or ~~for~~ the rendition of a judgment determining parentage *of a child*.

(2) ~~A verified petition,~~ *An* affidavit, ~~or~~ *a* document substantially complying with federally mandated forms ~~and~~, *or* a document incorporated by reference in any of them~~,~~ *that would* not *be* excluded under the hearsay rule if given in person~~,~~ is admissible in evidence if given under ~~oath~~ *penalty of perjury* by a party or witness residing ~~in another~~ *outside this* state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding

tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage *of a child* and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from ~~another~~ *outside this* state to a tribunal of this state by telephone, telecopier, or other *electronic* means that do not provide an original ~~writing~~ *record* may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this part, a tribunal of this state ~~may~~ *shall* permit a party or witness residing ~~in another~~ *outside this* state to be deposed or to testify *under penalty of perjury* by telephone, audiovisual means, or other electronic means at a designated tribunal or other location ~~in that state~~. A tribunal of this state shall cooperate with *other* tribunals ~~of other states~~ in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this part.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this part.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child."

Section 47. Section 40-5-176, MCA, is amended to read:

"40-5-176. Communications between tribunals. A tribunal of this state may communicate~~, in writing or by telephone or other means,~~ with a tribunal ~~of another~~ *outside this* state *in a record or by telephone, electronic mail, or other means* to obtain information concerning the laws ~~of that state;~~*,* the legal effect of a judgment, decree, or order of that tribunal~~;~~*,* and the status of a proceeding ~~in the other state~~. A tribunal of this state may furnish similar information by similar means to a tribunal ~~of another~~ *outside this* state."

Section 48. Section 40-5-177, MCA, is amended to read:

"40-5-177. Assistance with discovery. A tribunal of this state may:

(1) request a tribunal ~~of another~~ *outside this* state to assist in obtaining discovery; and

(2) upon request, compel a person over ~~whom~~ *which* it has jurisdiction to respond to a discovery order issued by a tribunal ~~of another~~ *outside this* state."

Section 49. Section 40-5-178, MCA, is amended to read:

"40-5-178. Receipt and disbursement of payments. *(1)* A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed ~~under this part~~ *by the order*. The agency or tribunal shall furnish to a requesting party or tribunal of another state *or a foreign country* a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) If neither the obligor nor the obligee who is an individual nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(a) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(b) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received."

Section 50. Section 40-5-179, MCA, is amended to read:

"40-5-179. ~~Petition to establish~~ *Establishment of* support order. (1) If a support order entitled to recognition under this part has not been issued, ~~an appropriate~~ *a* responding tribunal of this state *with personal jurisdiction over the parties* may issue a support order if:

(a) the individual seeking the order resides ~~in another~~ *outside this* state; or

(b) the support enforcement agency seeking the order is located ~~in another~~ *outside this* state.

(2) The tribunal may issue a temporary child support order if *the tribunal determines that such an order is appropriate and the individual ordered to pay is*:

(a) ~~the respondent has signed a verified statement acknowledging parentage~~ *the presumed father of the child*;

(b) ~~the respondent has been determined by or pursuant to law to be the parent~~ *petitioning to have his paternity adjudicated*; ~~or~~

(c) identified as the father of the child through genetic testing;

(d) an alleged father who has declined to submit to genetic testing;

~~(c)~~*(e)* ~~there is other~~ *shown by* clear and convincing evidence ~~that the respondent is the child's parent~~ *to be the father of the child;*

(f) an acknowledged father as provided by applicable state law;

(g) the mother of the child; or

(h) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to 40-5-162."

Section 51. Section 40-5-180, MCA, is amended to read:

"40-5-180. Administrative enforcement of orders. (1) A party *or support enforcement agency* seeking to enforce a support order or an income-withholding order, or both, issued ~~by a tribunal of~~ *in* another state *or a foreign support order* may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this part."

Section 52. Section 40-5-181, MCA, is amended to read:

"40-5-181. Credit for payments. ~~An amount~~ *A tribunal of this state shall credit amounts* collected ~~and credited~~ for a particular period pursuant to ~~a~~ *any child* support order ~~issued by a tribunal of another state must be credited~~ against the ~~amount accruing or accrued~~ *amounts owed* for the same period under ~~a~~ *any other child* support order *for support of the same child* issued ~~for the same obligation~~ by a tribunal of this state*, another state, or a foreign country*."

Section 53. Section 40-5-183, MCA, is amended to read:

"40-5-183. Limited immunity of petitioner. (1) Participation by a petitioner in a proceeding *under this part* before a responding tribunal, whether in person, by private attorney, or through services provided by ~~a~~ *the* support enforcement agency, does not confer *personal* jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this part.

(3) The immunity granted by this section does not extend to civil litigation based on acts ~~that are~~ unrelated to a proceeding under this part ~~and that are~~ committed by a party while *physically* present in this state to participate in the proceeding."

Section 54. Section 40-5-184, MCA, is amended to read:

"40-5-184. Registration of order for enforcement. A support order or ~~an~~ income-withholding order issued ~~by a tribunal of~~ *in* another state *or a foreign support order* may be registered in this state for enforcement."

Section 55. Section 40-5-185, MCA, is amended to read:

"40-5-185. Procedure to register order for enforcement. (1) ~~A~~ *Except as otherwise provided in [section 11], a* support order or income-withholding order of another state *or a foreign support order* may be registered in this state by sending the following *records* ~~documents and information~~ to the department of public health and human services pursuant to 40-5-263 or to the district court:

(a) a letter of transmittal to the tribunal ~~to request~~ *requesting* registration and enforcement;

(b) two copies, including one certified copy, of ~~all orders~~ *the order* to be registered, including any modification of ~~an~~ *the* order;

(c) a sworn statement by the ~~party seeking~~ *person requesting* registration or a certified statement by the custodian of the records, showing the amount of any ~~arrearages~~ *arrearage*;

(d) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state ~~that is~~ not exempt from execution; and

(e) *except as otherwise provided in 40-5-172,* the name and address of the obligee and, if applicable, the ~~agency or~~ person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed *as an order of a tribunal of another state or a foreign support order*, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed ~~either~~ at the same

time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(4) If two or more orders are in effect, the person requesting registration shall:

(a) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) specify the order alleged to be the controlling order, if any; and

(c) specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination."

Section 56. Section 40-5-186, MCA, is amended to read:

"40-5-186. Effect of registration *for* enforcement. (1) A support order or income-withholding order issued in another state *or a foreign support order* is registered when the order is filed in ~~a~~ *the* registering tribunal of this state.

(2) A registered *support* order issued in another state *or a foreign country* is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in ~~40-5-184 through 40-5-195~~ *this part*, a tribunal of this state shall recognize and enforce, but may not modify, a registered *support* order if the issuing tribunal had jurisdiction."

Section 57. Section 40-5-187, MCA, is amended to read:

"40-5-187. Choice of law. (1) ~~The~~ *Except as otherwise provided in subsection (4), the* law of the issuing state *or foreign country* governs*:*

(a) the nature, extent, amount, and duration of current payments ~~and other obligations of support and the payment of arrearages~~ under ~~the~~ *a registered support* order*;*

(b) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) the existence and satisfaction of other obligations under the support order.

(2) In a proceeding for ~~arrearages~~ *arrears under a registered support order*, the statute of limitations ~~under the laws~~ of this state ~~or of~~*, or of* the issuing state~~,~~ *or foreign country,* whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.

(4) After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears."

Section 58. Section 40-5-188, MCA, is amended to read:

"40-5-188. Notice of registration of order. (1) When a support order or income-withholding order issued in another state *or a foreign support order* is registered, the registering tribunal *of this state* shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after ~~the date of mailing or personal service of the~~ notice *unless the registered order is under [section 12]*;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner~~:~~

~~(i)~~ will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

~~(ii) precludes further contest of that order with respect to any matter that could have been asserted; and~~

(d) of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice must also:

(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(b) notify the nonregistering party of the right to a determination of which is the controlling order;

(c) state that the procedures provided in subsection (2) apply to the determination of which is the controlling order; and

(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

~~(3)~~*(4)* Upon registration of an income-withholding order for enforcement, *the support enforcement agency or* the registering tribunal shall notify the obligor's employer pursuant to the income-withholding laws of this state."

Section 59. Section 40-5-189, MCA, is amended to read:

"40-5-189. Procedure to contest validity or enforcement of registered *support* order. (1) A nonregistering party seeking to contest the validity or enforcement of a registered *support* order in this state shall request a hearing within ~~20 days after the date of mailing or personal service of notice of the registration~~ *the time required by 40-5-188*. A court hearing may be conducted by teleconferencing methods. A ~~department~~ *support enforcement agency* hearing must initially be conducted by teleconferencing methods and is subject to the Montana Administrative Procedure Act. The nonregistering party may~~, pursuant to 40-5-190,~~ seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages *pursuant to 40-5-190*.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered *support* order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered *support* order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing."

Section 60. Section 40-5-190, MCA, is amended to read:

"40-5-190. Contest of registration or enforcement. (1) A party contesting the validity or enforcement of a registered *support* order or seeking to

vacate the registration has the burden of proving one or more of the following defenses:

(a) the issuing tribunal lacked personal jurisdiction over the contesting party;

(b) the order was obtained by fraud;

(c) the order has been vacated, suspended, or modified by a later order;

(d) the issuing tribunal has stayed the order pending appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made; ~~or~~

(g) the statute of limitations under 40-5-187 precludes enforcement of some or all of the *alleged* arrearages*; or*

(h) the alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1), ~~the registering~~ *a* tribunal may stay enforcement of ~~the~~ *a* registered *support* order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered *support* order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) to the validity or enforcement of ~~the~~ *a registered support* order, the registering tribunal shall issue an order confirming the order."

Section 61. Section 40-5-191, MCA, is amended to read:

"40-5-191. Confirmed order. Confirmation of a registered *support* order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration."

Section 62. Section 40-5-192, MCA, is amended to read:

"40-5-192. Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify or to modify and enforce a child support order issued in another state shall register that order in this state in the same manner provided in 40-5-184 through ~~40-5-186,~~ *40-5-191* ~~40-5-188,~~ and 40-5-271 if the order has not been registered. A petition for modification may be filed ~~either~~ at the same time as a request for registration or later. The pleading must specify the grounds for modification."

Section 63. Section 40-5-193, MCA, is amended to read:

"40-5-193. Effect of registration for modification. A tribunal of this state may enforce a child support order of another state, registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state~~. However~~, *but* the registered *support* order may be modified only if the requirements of 40-5-194 have been met."

Section 64. Section 40-5-194, MCA, is amended to read:

"40-5-194. Modification of child support order of another state — *jurisdiction to modify child support order of another state when individual parties reside in this state — notice to issuing jurisdiction.* (1) ~~After a child support order issued in another state has been registered in this state, the responding~~ *If subsection (7) does not apply, upon petition a* tribunal of this state may modify ~~that~~ *a child support* order *that is issued in another state and that is registered in this state* ~~only~~ if ~~subsection (5) does not apply, and~~ after notice and hearing, ~~it~~ *the tribunal* finds that:

(a) the following requirements are met:

(i) *neither* the child~~,~~ *nor* the ~~individual~~ obligee *who is an individual*~~, and~~ *nor* the obligor ~~do not reside~~ *resides* in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) *this state is the residence of* the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed ~~written~~ consents in *a record in* the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction ~~over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this part, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order~~.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the laws of the issuing state*, including the duration of the obligation of support*. If two or more tribunals have issued child support orders for the same obligor and *same* child, the order that controls and must be recognized under 40-5-151 establishes the aspects of the support order that are nonmodifiable.

(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

~~(4)~~*(5)* On *the* issuance of an order *by a tribunal of this state* modifying a child support order issued in another state, ~~a~~ *the* tribunal of this state ~~has~~ *becomes the tribunal having* continuing, exclusive jurisdiction.

(6) Notwithstanding 40-5-145(2) and subsections (1) through (5) of this section, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(a) one party resides in another state; and

(b) the other party resides outside the United States.

~~(5)~~*(7)* (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under ~~subsection (5)(a)~~ *this subsection (7)* shall apply the provisions of *40-5-101,* 40-5-103, 40-5-143 through 40-5-152, 40-5-181, and 40-5-184 through 40-5-195*, [sections 1 through 5], and the procedural and substantive law of this state* to the *proceeding for* enforcement or modification ~~proceeding~~. ~~The remaining sections of this part~~ *Sections 40-5-153, 40-5-154, 40-5-158 through 40-5-180, 40-5-183, 40-5-196, and [sections 6 through 13]* do not apply.

~~(6)~~*(8)* Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order~~:~~

~~(a)~~ with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order~~;~~ and

~~(b)~~ in each tribunal in which the party knows that the earlier order has been registered.

~~(7)~~*(9)* A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction."

Section 65. Section 40-5-195, MCA, is amended to read:

"40-5-195. Recognition of order modified in another state. ~~A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another~~ *If a child support order issued by a tribunal of this state is modified by a tribunal of another* state that assumed jurisdiction pursuant to ~~this part or a law substantially similar to this part. Except as otherwise provided in this part, the~~ *the Uniform Interstate Family Support Act, a* tribunal of this state ~~shall, upon request~~:

(1) *may* enforce ~~the~~ *its* order that was modified only as to ~~amounts~~ *arrears and interest* accruing before the modification;

~~(2) enforce only nonmodifiable aspects of that order;~~

~~(3)~~*(2) may* provide ~~other~~ appropriate relief ~~only~~ for violations of ~~the~~ *its* order that occurred before the effective date of the modification; and

~~(4)~~*(3) shall* recognize the modifying order of the other state, upon registration, for the purpose of enforcement."

Section 66. Section 40-5-196, MCA, is amended to read:

"40-5-196. Proceeding to determine parentage. ~~(1)~~ A tribunal of this state *authorized to determine parentage of a child* may serve as ~~an initiating or~~ *a* responding tribunal in a proceeding brought under this part ~~or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act,~~ or a law or procedure substantially similar to ~~either of those acts to determine whether the petitioner is a parent of a particular child or to determine whether a respondent is a parent of that child~~ *this part*.

~~(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the rules of this state on choice of law.~~

~~(3) A proceeding to determine parentage directed to:~~

~~(a) the department of public health and human services from an initiating state pursuant to 40-5-263 and this part is subject to the provisions of 40-5-231 through 40-5-237 or Title 40, chapter 6, part 1, as applicable; and~~

~~(b) a district court from an initiating state is subject to the provisions of Title 40, chapter 6, part 1.~~"

Section 67. Section 40-5-197, MCA, is amended to read:

"40-5-197. Uniformity of ~~interpretation~~ *application and construction*. ~~This part must be so construed as to effectuate its general purpose to make uniform~~ *In applying and construing this uniform act, consideration must be given to the need to promote uniformity of* the law with respect to ~~the~~ *its* subject ~~of this part~~ *matter* among states ~~enacting~~ *that enact* it."

Section 68. Section 40-5-272, MCA, is amended to read:

"40-5-272. Application for review of child support orders. (1) Upon the application of the department, the obligor, or the obligee, a support order issued by a district court of this state, ~~or~~ by a court or administrative agency of another state*, tribe, or foreign country,* or a previously issued administrative support order of this state may be reviewed by the department to determine whether the support order should be modified in accordance with the guidelines.

(2) Jurisdiction to conduct the review and to issue a modifying order under 40-5-273, 40-5-277, and 40-5-278 is authorized when:

(a) the obligor and the obligee reside in this state; or

(b) jurisdiction can be obtained as provided under 40-5-231.

(3) Jurisdiction to review a child support order under this section does not confer jurisdiction for any other purpose, such as custody or visitation disputes.

(4) Criteria constituting sufficient grounds for review of a child support order include:

(a) a substantial change in circumstances as defined by administrative rules;

(b) the need to provide for the child's health care needs, regardless of the availability of health insurance coverage through employment or other group insurance;

(c) a lapse of 36 months from the date that:

(i) the order was entered;

(ii) an administrative hearing was granted under 40-5-277; or

(iii) an administrative order was issued denying a modification because of the applicant's failure to meet one of the criteria described in this subsection (4); or

(d) a change in custody of the child.

(5) A party may withdraw the party's request for modification prior to the issuance of the notice described in 40-5-273. After the issuance of the notice, if a party withdraws a request for modification, the nonrequesting party may continue the modification action by filing with the department a written request to continue.

(6) The department shall make available procedures and forms that allow the obligor or the obligee to complete the review process without legal counsel.

(7) To the extent that they are consistent with this section, the provisions of 40-5-145, 40-5-149, and 40-5-150 apply to this section."

Section 69. Section 40-5-923, MCA, is amended to read:

"40-5-923. Information and records — disclosure. Information in the case registry and payment processing unit that contains the social security number, residential address, income sources, and employers of an obligee or obligor [and the employee W-4 forms or similar forms transmitted to the department] is private and confidential and may be disclosed only ~~to~~:

(1) *to* courts, tribunals, and administrative agencies in this and any agency of another state or an Indian tribe having jurisdiction over child support, custody, visitation, and welfare pursuant to 42 U.S.C. 651, et seq.;

(2) *to* public assistance and medicaid agencies and the revenue, workers' compensation, and employment security programs of this or any other state for the purpose of determining eligibility, continued eligibility, or fraud by programs operated by those agencies and programs;

(3) *to* the obligor or obligee who is the subject of the information;

(4) *to* the state vital statistics agency for the purposes of 50-15-302; ~~and~~

(5) *to* the department of revenue*;*

(6) for any other use permitted or required by the federal Social Security Act. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)"

Section 70. Transition. [This act] applies to proceedings begun on or after July 1, 2015, to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Section 71. Codification instruction — directions to code commissioner. (1) [Sections 1 through 18] are intended to be codified as an integral part of Title 40, chapter 5, and the provisions of Title 40, chapter 5, apply to [sections 1 through 18].

(2) [Sections 1 through 18] and all sections of Title 40, chapter 5, part 1, are intended to be codified together as a new part in Title 40, chapter 5.

(3) The code commissioner is instructed to change internal references with and to [sections 1 through 18] and the numbered sections, including sections enacted or amended by the 64th legislature, to reflect the new section numbers assigned to sections pursuant to this section.

Section 72. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 73. Effective date. [This act] is effective July 1, 2015.

Approved April 2, 2015

CHAPTER NO. 175

[HB 232]

AN ACT PROVIDING AN INCREASED PENALTY FOR THE THEFT OF IDENTITY OF A MINOR; AMENDING SECTION 45-6-332, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-6-332, MCA, is amended to read:

"45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than $1,500 was gained or *was* attempted to be gained shall be fined an amount not to exceed $1,500, imprisoned in the county jail for a term not to exceed 6 months, or both. *If the victim is a minor, the offender shall be fined an amount not to exceed $3,000, imprisoned in the county jail for a term not to exceed 1 year, or both.*

(b) A person convicted of the offense of theft of identity if an economic benefit of $1,500 or more was gained or *was* attempted to be gained shall be fined an

amount not to exceed $10,000, imprisoned in a state prison for a term not to exceed 10 years, or both. *If the victim is a minor, the offender shall be fined an amount not to exceed $20,000, imprisoned in a state prison for a term not to exceed 20 years, or both.*

(3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

Section 2. Applicability. [This act] applies to proceedings begun on or after October 1, 2015.

Approved April 2, 2015

CHAPTER NO. 176

[HB 252]

AN ACT ELIMINATING THE REQUIREMENT THAT RESEARCH AND COMMERCIALIZATION ACCOUNT FUNDS BE SPENT FOR RESEARCH INTO CLEAN COAL AND RENEWABLE RESOURCES; AMENDING SECTIONS 90-3-1002 AND 90-3-1003, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-3-1002, MCA, is amended to read:

"90-3-1002. Research and commercialization account. (1) There is a research and commercialization special revenue account within the state treasury. The purpose of the account is to establish a permanent source of funding for research and commercialization projects to be conducted at research and commercialization centers in the state and to pay the costs of administering those projects.

(2) The research and commercialization account must be invested by the board of investments. ~~Except as provided in 90-3-1003(5)(b), earnings~~ *Earnings* on the account must be deposited in the account for distribution pursuant to ~~90-3-1003(3) through (5) and (8)~~ *90-3-1003(3), (4), and (7)*."

Section 2. Section 90-3-1003, MCA, is amended to read:

"90-3-1003. Research and commercialization account — use. (1) The research and commercialization account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

(2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth opportunities for Montana and constitute a public purpose.

(3) The account may be used only for:

(a) loans that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(b) grants that are to be used for production agriculture research, development, and commercialization projects, clean coal research and development projects, or renewable resource research and development projects to be conducted at research and commercialization centers located in Montana;

(c) matching funds for grants from nonstate sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(d) the Montana food and agricultural development program provided for in 80-11-901; or

(e) administrative costs that are incurred by the board in carrying out the provisions of this part.

(4) At least $195,000 of the account funds must be distributed on an annual basis to the department of agriculture to support and administer the Montana food and agricultural development program provided for in 80-11-901.

~~(5) (a) At least 30% of the account funds approved for research and commercialization projects must be directed toward projects that enhance clean coal research and development or renewable resource research and development.~~

~~(b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and development or renewable resource research and development, subsection (5)(a) does not apply.~~

~~(6)~~*(5)* An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

~~(7)~~*(6)* The board shall establish policies, procedures, and criteria that achieve the objectives in its research and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

(a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

(b) whether the project shows promise for enhancing technology-based sectors of Montana's economy or promise for commercial development of discoveries;

(c) whether the project employs or otherwise takes advantage of existing research and commercialization strengths within the state's public university and private research establishment;

(d) whether the project involves a realistic and achievable research project design;

(e) whether the project develops or employs an innovative technology;

(f) verification that the project activity is located within the state;

(g) whether the project's research team possesses sufficient expertise in the appropriate technology area to complete the research objective of the project;

(h) verification that the project was awarded based on its scientific merits, following review by a recognized federal agency, philanthropic foundation, or other private funding source; and

(i) whether the project includes research opportunities for students.

~~(8)~~*(7)* The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the account must be

retained in the account. Repayments of loans and any agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the transfer of technology from a research and commercialization center to another nonstate organization or ownership of corporate stock in a private sector organization must be deposited in the account.

~~(9)~~*(8)* The board shall refer grant applications to external peer review groups. The board shall compile a list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall review the application and make a recommendation to the board as to whether the application for a grant should be approved. The board shall review the recommendation of the peer review group and either approve or deny a grant application.

~~(10)~~*(9)* The board shall identify whether a grant or loan is to be used for basic research, applied research, or some combination of both. For the purposes of this section, "applied research" means research that is conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted to uncover the basic function or mechanism of a scientific question.

~~(11) For the purposes of this section:~~

~~(a) "clean coal research and development" means research and development of projects that would advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source well beyond the current level of technology used in commercial service;~~

~~(b) "renewable resource research and development" means research and development that would advance:~~

~~(i) the use of any of the sources of energy listed in 69-3-2003(10) to produce electricity; and~~

~~(ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources as an energy source well beyond the current level of technology used in commercial service.~~"

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 2, 2015

CHAPTER NO. 177

[HB 285]

AN ACT PROVIDING FOR REVISED DEFINITIONS RELATED TO GUEST RANCHES; CLARIFYING WHAT CONSTITUTES A SEASONAL ESTABLISHMENT AND A SMALL ESTABLISHMENT; AMENDING SECTION 50-51-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-51-102, MCA, is amended to read:

"50-51-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Bed and breakfast" means a private, owner- or manager-occupied residence that is used as a private residence but in which:

(a) breakfast is served and is included in the charge for a guest room; and

(b) the number of daily guests served does not exceed 18.

(2) (a) "Day visitor" means a guest whose primary purpose on the guest ranch is to participate in recreational activities regularly provided by the guest ranch for a fee including but not limited to hunting, horseback riding, working cattle, hiking, biking, snowmobiling, or fishing, who may be served food incidental to the activity, and who does not stay overnight.

(b) The term does not include persons attending weddings, parties, large group functions, or other meals not related to the recreational activities described in subsection (2)(a) and who may not be served food unless the guest ranch or other entity serving the food has a license issued pursuant to 50-50-201.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Establishment" means a bed and breakfast, hotel, motel, roominghouse, guest ranch, outfitting and guide facility, boardinghouse, or tourist home.

(5) "Guest ranch" means a facility that:

(a) uses one or more permanent structures, one or more of which have running water, sewage disposal, and a kitchen;

(b) furnishes sleeping accommodations on advance reservations for a minimum stay;

(c) provides recreational activities that include but are not limited to hunting, horseback riding, fishing, hiking, biking, snowmobiling, or a working cattle ranch experience to its guests and day visitors; and

(d) is a small establishment or a seasonal establishment.

(6) "Hotel" or "motel" includes:

(a) a building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, or public lodginghouse; *and*

(b) a place where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

(7) "Outfitting and guide facility" means a facility that:

(a) uses one or more permanent structures, one or more of which have running water, sewage disposal, and a kitchen;

(b) furnishes sleeping accommodations to guests;

(c) offers hunting, fishing, or recreational services in conjunction with the services of an outfitter or guide, as defined in 37-47-101; and

(d) is a small establishment or a seasonal establishment.

(8) "Person" includes an individual, partnership, corporation, association, county, municipality, cooperative group, or other entity engaged in the business of operating, owning, or offering the services of a bed and breakfast, hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or roominghouse.

(9) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or personal-care services provided by the facility.

(10) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less than 120 days in a calendar year and offering accommodations to ~~between 9 and~~ *no more than* 40 people on average a day. The

average number of people a day is determined by dividing the total number of guests accommodated during the year by the total number of days that the establishment was open for the purpose of accommodating guests as a guest ranch or outfitting and guide facility during the year.

(11) "Small establishment" means a guest ranch or an outfitting and guide facility offering accommodations to ~~between 9 and~~ *no more than* 24 people on average a day. The average number of people a day is determined by dividing the total number of guests accommodated during the year by the total number of days that the establishment was open for the purpose of accommodating guests as a guest ranch or outfitting and guide facility during the year.

(12) "Tourist home" means a private home or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

(13) "Transient guest" means a guest for only a brief stay, such as the traveling public."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 178

[HB 366]

AN ACT ALLOWING A CLERK OF DISTRICT COURT AND JUSTICE OF THE PEACE TO RECEIVE UP TO $2,000 A YEAR IN ADDITION TO BASE SALARY; AMENDING SECTION 7-4-2503, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2503, MCA, is amended to read:

"7-4-2503. Salary schedule for certain county officers — county compensation board. (1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, county sheriff, county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812, justice of the peace, county coroner, and county auditor in all counties in which the office is authorized must be established by the county governing body based upon the recommendations of the county compensation board provided for in subsection (4).

(b) Except as provided in subsection (2), the annual salary established pursuant to subsection (1)(a) must be uniform for all county officers referred to in subsection (1)(a).

(2) (a) An elected county superintendent of schools must receive, in addition to the salary based upon subsection (1), the sum of $400 a year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up to $2,000 a year.

(b) The county sheriff must receive, in addition to the salary based upon subsection (1), the sum of $2,000 a year.

(c) The county sheriff must receive a longevity payment amounting to 1% of the salary determined under subsection (1) for each year of service with the

sheriff's office, but years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases. The additional salary amount provided for in this subsection may not be included in the salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(d) If the clerk and recorder is also the county election administrator, the clerk and recorder may receive, in addition to the base salary provided in subsection (1)(a), up to $2,000 a year. The additional salary provided for in this subsection (2)(d) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(e) The county treasurer*, clerk of district court, and justice of the peace* may *each* receive, in addition to the base salary provided in subsection (1)(a), up to $2,000 a year. The additional salary provided for in this subsection (2)(e) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(f) The county coroner may be a part-time position, and the salary may be set accordingly.

(3) (a) Subject to subsection (3)(b), the salary for the county attorney must be set as provided in subsection (4).

(b) If the uniform base salary set for county officials pursuant to subsection (1) is increased, then the county attorney is entitled to at least the same increase unless the increase would cause the county attorney's salary to exceed the salary of a district court judge.

(c) (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of $1,000 on the anniversary date of employment as deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of $1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of additional service up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual increase in salary of $500.

(ii) The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase.

(4) (a) There is a county compensation board consisting of:

(i) the county commissioners;

(ii) three of the county officials described in subsection (1) appointed by the board of county commissioners;

(iii) the county attorney;

(iv) two to four resident taxpayers appointed initially by the board of county commissioners to staggered terms of 3 years, with the initial appointments of one or two taxpayer members for a 2-year term and one or two taxpayer members for a 3-year term; and

(v) (A) subject to subsection (4)(a)(v)(B), one resident taxpayer appointed by each of the three county officials described in subsection (4)(a)(ii).

(B) The appointments in subjection (4)(a)(v)(A) are not mandatory.

(b) The county compensation board shall hold hearings annually for the purpose of reviewing the compensation paid to county officers. The county compensation board may consider the compensation paid to comparable officials

in other Montana counties, other states, state government, federal government, and private enterprise.

(c) The county compensation board shall prepare a compensation schedule for the elected county officials, including the county attorney, for the succeeding fiscal year. The schedule must take into consideration county variations, including population, the number of residents living in unincorporated areas, assessed valuation, motor vehicle registrations, building permits, and other factors considered necessary to reflect the variations in the workloads and responsibilities of county officials as well as the tax resources of the county.

(d) A recommended compensation schedule requires a majority vote of the county compensation board, and at least two county commissioners must be included in the majority. A recommended compensation schedule may not reduce the salary of a county officer that was in effect on May 1, 2001.

(e) The provisions of this subsection (4) do not apply to a county that has adopted a charter form of government or to a charter, consolidated city-county government."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 2, 2015

CHAPTER NO. 179

[HB 396]

AN ACT REMOVING THE TERMINATION DATE FOR THE SMALL BUSINESS IMPACT ANALYSIS UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND REPEALING SECTION 6, CHAPTER 318, LAWS OF 2013.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 6, Chapter 318, Laws of 2013, is repealed.

Approved April 2, 2015

CHAPTER NO. 180

[HB 410]

AN ACT GENERALLY REVISING LAWS REGARDING OLDER PERSONS, INCAPACITATED PERSONS, AND DEVELOPMENTALLY DISABLED PERSONS; PROVIDING FOR THE ADMISSIBILITY OF HEARSAY STATEMENTS UNDER CERTAIN CIRCUMSTANCES WHERE REASONABLE GUARANTEES OF TRUSTWORTHINESS ARE PRESENT IN CASES OF EXPLOITATION OF OLDER PERSONS, INCAPACITATED PERSONS, AND PERSONS WITH DEVELOPMENTAL DISABILITIES; CREATING THE OFFENSE OF EXPLOITATION OF AN OLDER PERSON, INCAPACITATED PERSON, OR DEVELOPMENTALLY DISABLED PERSON; PROVIDING PENALTIES; AND AMENDING SECTION 52-3-825, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Testimony of third person in cases of exploitation of older person, incapacitated person, or developmentally disabled person. (1) Otherwise inadmissible hearsay may be admitted into evidence in a criminal proceeding, as provided in subsections (2) and (3), if:

(a) the declarant of the out-of-court statement is an older person, an incapacitated person, or an individual with a developmental disability who is:

(i) an alleged victim of exploitation of an older person, incapacitated person, or developmentally disabled person pursuant to [section 2] that is the subject of the criminal proceeding; or

(ii) a witness to an alleged exploitation of an older person, incapacitated person, or developmentally disabled person pursuant to [section 2] that is the subject of the criminal proceeding;

(b) the court finds that the time, content, and circumstances of the statement provide circumstantial guarantees of trustworthiness;

(c) the older person, the incapacitated person, or the individual with a developmental disability is unavailable as a witness;

(d) the hearsay testimony is offered as evidence of a material fact and is more probative on the point for which it is offered than any other evidence available through reasonable efforts; and

(e) the party intending to offer the hearsay testimony gives sufficient notice to provide the adverse party with a fair opportunity to prepare. The notice must include the content of the statement, the approximate time, date, and location of the statement, the person to whom the statement was made, and the circumstances surrounding the statement that the offering party believes support the statement's reliability.

(2) The court shall issue findings of fact and conclusions of law setting forth the court's reasoning on the admissibility of the testimony.

(3) When deciding the admissibility of offered hearsay testimony under subsections (1) and (2), a court shall consider the following:

(a) the attributes of the hearsay declarant, including:

(i) the individual's age;

(ii) the individual's ability to communicate verbally;

(iii) the individual's ability to comprehend the statements or questions of others;

(iv) the individual's ability to tell the difference between truth and falsehood;

(v) the individual's motivation to tell the truth, including whether the individual understands the general obligation to speak truthfully and not fabricate stories;

(vi) whether the individual possessed sufficient mental capacity at the time of the alleged incident to create an accurate memory of the incident; and

(vii) whether the individual possesses sufficient memory to retain an independent recollection of the events at issue;

(b) information regarding the witness who is relating the individual's hearsay statement, including:

(i) the witness's relationship to the individual;

(ii) whether the relationship between the witness and the individual has an impact on the trustworthiness of the individual's hearsay statement;

(iii) whether the witness has a motive to fabricate or distort the individual's statement; and

(iv) the circumstances under which the witness heard the individual's statement, including the timing of the statement in relation to the incident at issue and the availability of another person in whom the individual could confide;

(c) information regarding the individual's statement, including:

(i) whether the statement contains knowledge not normally attributed to an individual of the declarant's age;

(ii) whether the statement was spontaneous;

(iii) the suggestiveness of statements by other persons to the individual at the time that the individual made the statement;

(iv) if statements were made by the individual to more than one person, whether those statements were consistent;

(v) the nearness in time of the statement to the incident at issue; and

(vi) whether the statement is testimonial or nontestimonial in character; and

(d) other considerations that in the judge's opinion may bear on the admissibility of the individual's hearsay testimony.

(4) As used in this section, the following definitions apply:

(a) "Developmental disability" has the meaning provided in 53-20-102.

(b) "Incapacitated person" has the meaning provided in 72-5-101.

(c) "Older person" means a person who is 65 years of age or older.

Section 2. Exploitation of older person, incapacitated person, or person with developmental disability. (1) A person commits the offense of exploitation of an older person, an incapacitated person, or a person with a developmental disability if the person:

(a) purposely or knowingly obtains or uses or attempts to obtain or use an older person's, incapacitated person's, or developmentally disabled person's funds, assets, or property with the intent to temporarily or permanently deprive the older person, incapacitated person, or developmentally disabled person of the use, benefit, or possession of funds, assets, or property or to benefit someone other than the older person, incapacitated person, or developmentally disabled person; and

(b) (i) stands in a position of trust or confidence with the older person, incapacitated person, or developmentally disabled person; or

(ii) has a business relationship with the older person, incapacitated person, or developmentally disabled person.

(2) A person commits the offense of exploitation of an older person, an incapacitated person, or a person with a developmental disability if the person:

(a) purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person; and

(b) (i) stands in a position of trust or confidence with the older person, incapacitated person, or developmentally disabled person; or

(ii) has a business relationship with the older person, incapacitated person, or developmentally disabled person.

(3) A person convicted of the offense of exploitation of an older person, an incapacitated person, or a person with a developmental disability shall be fined an amount not to exceed $10,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(4) As used in this section, the following definitions apply:

(a) "developmental disability" has the meaning provided in 53-20-102.

(b) "incapacitated person" has the meaning provided in 72-5-101.

(c) "older person" means a person who is 65 years of age or older.

Section 3. Section 52-3-825, MCA, is amended to read:

"52-3-825. Penalties. (1) A person who purposely or knowingly fails to make a report required by 52-3-811 or discloses or fails to disclose the contents of a case record or report in violation of 52-3-813 is guilty of an offense and upon conviction is punishable as provided in 46-18-212.

(2) (a) A person who purposely or knowingly abuses, sexually abuses, or neglects an older person or a person with a developmental disability is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed $10,000, or both.

(b) (i) A person who negligently abuses an older person or a person with a developmental disability is guilty of a misdemeanor and upon a first conviction shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(b)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed $10,000, or both.

(c) A person with a developmental disability may not be charged under subsection (2)(a) or (2)(b).

~~(3) (a) A person convicted of purposely or knowingly exploiting an older person or a person with a developmental disability in a case involving money, assets, or property in an amount of $1,000 or less in value shall be fined an amount not more than $1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of purposely or knowingly exploiting an older person or a person with a developmental disability in a case involving money, assets, or property in an amount of more than $1,000 but less than $25,000 in value shall be fined an amount not more than $50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. A person convicted of purposely or knowingly exploiting an older person or a person with a developmental disability in a case involving money, assets, or property in an amount of $25,000 or more in value shall be fined an amount not more than $50,000 or be imprisoned in a state prison for a term of not less than 1 year and not more than 10 years, or both.~~

~~(b) For purposes of prosecution under subsection (3)(a) in a case involving the same transaction or in a case prosecuted pursuant to a common scheme, the amounts may be aggregated in determining the value involved.~~"

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 46, chapter 16, part 2, and the provisions of Title 46, chapter 16, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 45, chapter 6, part 3, and the provisions of Title 45, chapter 6, part 3, apply to [section 2].

Approved April 2, 2015

CHAPTER NO. 181

[HB 436]

AN ACT REVISING THE MONTANA UNIFORM TRUST CODE BY MAKING IT TECHNICALLY CONSISTENT WITH THE UNIFORM TRUST CODE; AND AMENDING SECTIONS 72-38-132, 72-38-301, 72-38-802, 72-38-1008, AND 72-38-1013, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-38-132, MCA, is amended to read:

"72-38-132. Content of notice. The notice of proposed action or notice of proposed inaction must state that it is given pursuant to this part and must include all of the following:

(1) the name and mailing address of the trustee;

(2) the name and telephone number of a person who may be contacted for additional information;

(3) a description of the action or inaction proposed, the material facts upon which the trustee has relied in making its decision regarding the proposed action or inaction, and an explanation of the reasons for the action or inaction;

(4) a statement that failure of a qualified beneficiary to object within the allowed time bars the qualified beneficiary from taking any legal action against the trustee for liability within the scope of 72-38-133 except as provided in 72-38-133(3) and that a qualified beneficiary may want to seek independent legal advice regarding the matter at the qualified beneficiary's expense;

(5) the time within which objections to the proposed action or inaction can be made, which must be at least 30 days from providing the notice of proposed action or notice of proposed inaction; *and*

~~(6) the time within which objections to the proposed action or inaction can be made, which must be at least 30 days from providing the notice of proposed action or notice of proposed inaction; and~~

~~(7)~~*(6)* the date on or after which the proposed action or inaction is effective."

Section 2. Section 72-38-301, MCA, is amended to read:

"72-38-301. Representation — basic effect. (1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation by notifying the trustee or representative before the consent would otherwise have become effective.

(3) Except as otherwise provided in 72-38-410 and 72-38-602, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(4) A settlor may not represent and bind a beneficiary under this part with respect to the termination or modification of a trust under 72-38-410(1).

(5) In the event of a conflict between this part and part 2 of this chapter, the provisions of part 2 must supersede the contrary provisions in this part."

Section 3. Section 72-38-802, MCA, is amended to read:

"72-38-802. Duty of loyalty. (1) A trustee shall administer the trust solely in the interests of the beneficiaries.

(2) Subject to the rights of persons dealing with or assisting the trustee as provided in ~~72-38-1013~~ *72-38-1012*, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(a) the transaction was authorized by the terms of the trust;

(b) the transaction was approved by the court;

(c) the beneficiary did not commence a judicial proceeding within the time allowed by 72-38-1005;

(d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with 72-38-1009; or

(e) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(3) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

(a) the trustee's spouse;

(b) the trustee's descendants, siblings, parents, or their spouses;

(c) an agent or attorney of the trustee; or

(d) a corporation or other person or enterprise in which the trustee, or a person who owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

(4) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary. However, a beneficiary's gift to charity or to a trust for a charity's benefit is not voidable by this subsection even though the charity may be, or may have been, serving as trustee of a trust created for the benefit of the beneficiary.

(5) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(6) An investment by a trustee in securities of an investment company or investment trust to which the trustee or its affiliate provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the prudent investor rule of Title 72, chapter 38, part 9. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee must at least annually notify the persons entitled under 72-38-813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(7) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of

enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(8) This section does not preclude the following transactions, if fair to the beneficiaries:

(a) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(b) payment of reasonable compensation to the trustee;

(c) a transaction between a trust and another trust, decedent's estate, or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

(d) a deposit of trust money in a regulated financial-service institution operated by the trustee; or

(e) an advance by the trustee of money for the protection of the trust.

(9) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee."

Section 4. Section 72-38-1008, MCA, is amended to read:

"72-38-1008. Exculpation of trustee. (1) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

(a) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the fiduciary duties of the trustee, the terms or purposes of the trust, or the interests of the beneficiaries;

(b) was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor; or

(c) relieves the trustee of accountability for profits derived from a breach of trust.

(2) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances~~,~~ *and* that its existence and contents were adequately communicated to the settlor~~, and that the settlor was represented by independent legal counsel before adopting the exculpatory term~~."

Section 5. Section 72-38-1013, MCA, is amended to read:

"72-38-1013. Certification of trust. (1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(a) that the trust exists and the date the trust instrument was executed;

(b) the identity of the settlor;

(c) the identity and address of the currently acting trustee;

(d) the relevant powers of the trustee;

(e) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust; ~~and~~

(f) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee*; and*

(g) if the governing law of the trust is not the law of Montana, the identity of the state whose laws govern the trust.

(2) A certification of trust may be signed or otherwise authenticated by any trustee. Upon request, the trustee shall acknowledge the certification in order that the certification may be recorded.

(3) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(4) A certification of trust need not contain the dispositive terms of a trust.

(5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments that designate the trustee and confer upon the trustee the power to act in the pending transaction.

(6) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(9) This section does not limit the right of a person to obtain a copy of the trust instrument when required to be furnished by law or in a judicial proceeding concerning the trust.

(10) A certification under subsection (1)(g) may not be construed as constituting consent by any person receiving a certification of trust to the jurisdiction or application of laws of any state."

Approved April 2, 2015

CHAPTER NO. 182

[HB 482]

AN ACT PROVIDING THAT AN OFFENDER WHO IS A PROFESSIONAL LICENSED BY THE STATE AND COMMITS THE OFFENSE OF SEXUAL ASSAULT MUST REGISTER AS A SEXUAL OFFENDER ON THE SEXUAL AND VIOLENT OFFENDER REGISTRY IN CERTAIN CASES; REVISING DEFINITIONS; AMENDING SECTION 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that

predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-310, 45-5-311, *45-5-502 (if the offender is a professional licensed under Title 37 and commits the offense during any treatment, consultation, interview, or evaluation of a person's physical or mental condition, ailment, disease, or injury),* 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved April 2, 2015

CHAPTER NO. 183

[HB 513]

AN ACT REVISING LAWS REGARDING PRIVILEGED COMMUNICATIONS BETWEEN MENTAL HEALTH PROFESSIONALS AND CLIENTS; AMENDING SECTION 26-1-807, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 26-1-807, MCA, is amended to read:

"26-1-807. ~~Psychologist-client~~ *Mental health professional-client* privilege. The confidential relations and communications between a psychologist*, psychiatrist, licensed professional counselor, or licensed clinical social worker* and a client must be placed on the same basis as provided by law for those between an attorney and a client. Nothing in any act of the legislature may be construed to require the privileged communications to be disclosed."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 184

[HB 522]

AN ACT ESTABLISHING LAWS RELATED TO TRANSACTIONS REGARDING MONTANA FARM MUTUAL INSURERS; ALLOWING MONTANA FARM MUTUAL INSURERS TO UNDERGO MERGERS AND BULK REINSURANCE AGREEMENTS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Farm mutual insurers — merger. (1) A domestic farm mutual insurer may not merge or consolidate with a stock insurer.

(2) A domestic farm mutual insurer may merge or consolidate with another farm mutual insurer or another domestic mutual insurer if:

(a) the insurers transact similar lines of business;

(b) the insurers agree on a plan for merger or consolidation which must be submitted to all members of each insurer by ballot and approved by two-thirds of the members voting for each respective insurer; and

(c) after submitting the plan for review and opportunity for a hearing, the commissioner shall provide written approval or denial of the merger or consolidation within a reasonable time.

(3) After opportunity for a hearing in subsection (2), the commissioner may not approve the merger or consolidation if evidence shows that it:

(a) is inequitable to the policyholders of any domestic mutual insurer involved;

(b) would substantially reduce the security of and service to be rendered to policyholders of the domestic mutual insurer; or

(c) is contrary to law.

(4) Sections 33-3-217(5) and 33-3-218 also apply to mergers and consolidations of mutual insurers with a farm mutual insurer.

(5) Upon merger or consolidation of a domestic farm mutual insurer with another domestic mutual insurer under this chapter, the corporate charter of the merged or consolidated domestic farm mutual insurer must automatically be extinguished and nullified.

Section 2. Bulk reinsurance — farm mutual insurers. (1) A domestic farm mutual insurer may reinsure all or substantially all its business in force, or all or substantially all of a major class of its business, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. An agreement may not become effective unless filed with the commissioner and approved by the commissioner in writing.

(2) The commissioner shall approve an agreement within a reasonable time after filing if the commissioner finds it to be fair and equitable to each domestic insurer involved and that the reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the commissioner does not approve the agreement, the commissioner shall notify each insurer involved in writing specifying the reasons for disapproval.

(3) The plan and agreement for reinsurance must be approved by a quorum of the board of directors of each farm mutual insurer involved in the agreement.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 4, and the provisions of Title 33, chapter 4, apply to [sections 1 and 2].

Approved April 2, 2015

CHAPTER NO. 185

[SB 31]

AN ACT ALLOWING RAW HONEY TO BE BARTERED AND SOLD AS A RAW AND UNPROCESSED FARM PRODUCT AT FARMER'S MARKETS WITHOUT A SPECIAL LICENSE; AMENDING SECTIONS 50-50-102 AND 50-50-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-50-102, MCA, is amended to read:

"50-50-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.

(2) "Consumer" means a person who is a member of the public, takes possession of food, is not operating an establishment, and does not offer the food for resale.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) (a) "Establishment" means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.

(b) The term does not include people who gather to exchange in nonmonetary transactions:

(i) high-acid canned goods, including but not limited to tomato sauce, fruits, pickles, or other vinegar-based foods;

(ii) home-brewed beer; ~~or~~

(iii) dehydrated fruits and vegetables*; or*

(iv) raw honey.

(5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.

(6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(7) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.

(b) The term does not include:

(i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in their unbroken, original containers;

(ii) a private organization serving food only to its members;

(iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat for the owner of the carcass for consumption by the owner or the owner's family, pets, or nonpaying guests; *or*

(iv) an establishment, as defined in 50-51-102, that serves food only to its registered guests and day visitors.

(8) "Local board of health" means a county, city, city-county, or district board of health.

(9) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

(10) "Meat market" means an operation and *the* buildings or structures in connection with it used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(11) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.

(12) "Perishable food dealer" means an operation that is in the business of purchasing and selling perishable food to the public at retail.

(13) "Person" means a person, partnership, corporation, association, cooperative group, the state or a political subdivision of the state, or other entity.

(14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:

(i) the rapid and progressive growth of infectious or toxigenic microorganisms; or

(ii) the growth and toxin production of Clostridium botulinum.

(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

(c) The term does not include:

(i) an air-cooled, hard-boiled egg with intact shell;

(ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);

(iii) a food with a water activity (aw) value of 0.85 or less;

(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of Clostridium botulinum cannot occur.

(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.

(b) The term does not include:

(i) tomatoes or food products containing tomatoes; or

(ii) any other food substrate or product preserved by any method other than that described in subsection (15)(a).

(16) "Raw and unprocessed farm products" means*:*

(a) raw honey that:

(i) is not combined with other food products; and

(ii) if packaged, is packaged in a clean container with a label; or

(b) fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:

~~(a)~~*(i)* cooked;

~~(b)~~*(ii)* canned;

~~(c)~~*(iii)* preserved, except for drying;

~~(d)~~*(iv)* combined with other food products; or

~~(e)~~*(v)* peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(17) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(18) "Retail" means the provision of food directly to the consumer.

(19) (a) "Retail food manufacturing establishment" means an operation and the buildings or structures *in connection with it* used to manufacture or prepare food for sale or human consumption at retail.

(b) The term does not include:

(i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) slaughterhouses, meat packing plants, or meat depots; or

(iii) producers or harvesters of raw and unprocessed farm products.

(20) (a) "Water hauler" means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches."

Section 2. Section 50-50-202, MCA, is amended to read:

"50-50-202. Establishments exempt from license requirement — farmer's market records. (1) Establishments owned or operated by the state or a political subdivision of the state that employ a full-time sanitarian are exempt from licensure but shall comply with the requirements of this chapter and rules adopted by the department under this chapter.

(2) (a) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection:

(i) must be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; and

(ii) prior to each operation, shall register with the local health officer or sanitarian on forms provided by the department.

(b) Nonprofit organizations or persons selling baked goods or preserves exclusively for a charitable community purpose are exempt from registration if they notify the local health officer or sanitarian, by phone or in person, before the event. The notification required is limited to the date and time of the event, items planned to be sold, and an estimate of the number of people expected to be served at the event.

(3) (a) (i) A license is not required of a gardener, *apiarist,* farm owner, or farm operator who sells raw and unprocessed farm products or whole shell eggs at a farmer's market.

(ii) Whole shell eggs sold at a farmer's market by a farm owner or operator must:

(A) be clean, free of cracks, and stored in clean cartons;

(B) be kept at a temperature established by the department; and

(C) carry a label indicating the name and address of the farm owner or operator selling the eggs.

(b) A license is not required of a person:

(i) selling or offering hot coffee or hot tea at a farmer's market; or

(ii) selling baked goods or preserves at a farmer's market or exclusively for a charitable community purpose.

(c) Coffee or tea exempted under this subsection (3) may not be prepared or served with fresh milk or cream.

(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent."

Section 3. Coordination instruction. If both House Bill No. 478 and [this act] are passed and approved, then [this act] is void on October 1, 2015.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 186

[SB 39]

AN ACT GENERALLY REVISING THE LAWS RELATED TO PATENT AND COPYRIGHT TROLLING; PROVIDING FOR THE CIVIL OFFENSE OF BAD FAITH ASSERTION OF A PATENT RIGHT, INCLUDING REMEDIES AND DAMAGES AVAILABLE FOR THE OFFENSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Affiliated person" means a person under common ownership or control of an intended recipient.

(2) "Intended recipient" means a person who purchases, rents, leases, or otherwise obtains a product or service in the commercial market that is not for resale in the person's ordinary business and that is or later becomes the subject of a patent infringement allegation.

(3) "Person" means a natural person, partnership, corporation, company, trust, business entity, or association and an agent, employee, partner, officer, director, member, associate, or trustee of a person.

Section 2. Bad faith assertion of patent right. (1) A person may not, in connection with the assertion of a United States patent, send or cause a person to send a written or electronic communication stating in bad faith that the intended recipient or an affiliated person is infringing or has infringed a patent and bears liability or owes compensation to another person if:

(a) the communication falsely states that litigation has been filed against the intended recipient or threatens litigation if compensation is not paid or the infringement issue is not otherwise resolved; or

(b) the assertions contained in the communication lack a reasonable basis in fact or law because:

(i) the person asserting the patent is not or does not represent a person with the current right to license the patent to or enforce the patent against the intended recipient or an affiliated person;

(ii) the communication seeks compensation for a patent that has been held to be invalid or unenforceable in a final judicial or administrative decision;

(iii) the communication seeks compensation on account of activities undertaken after the patent has expired; or

(iv) the content of the communication fails to include information necessary to inform an intended recipient or affiliated person about the patent assertion by failing to include one of the following:

(A) the identity of the person asserting a right to license the patent to or enforce the patent against the intended recipient or an affiliated person;

(B) the patent number issued by the United States patent and trademark office for a patent that is alleged to have been infringed; or

(C) the factual allegations concerning the specific area in which the intended recipient's or affiliated person's technology, products, or services infringed the patent or are covered by the claims of the patent.

(2) It is not a violation of this section for a person who owns or has the right to license or enforce a patent to**:**

(a) advise others of that ownership or right of license or enforcement;

(b) communicate to others that a patent is available for license or sale;

(c) notify another of the infringement of the patent; or

(d) if the person is not acting in bad faith, seek compensation for past or present infringement or for a license to the patent.

(3) [Sections 1 through 4] do not apply to a written or electronic communication sent by:

(a) an owner of a patent or a licensee who is using the patent in connection with substantial research, development, production, manufacturing, processing, or delivery of products or materials;

(b) an institution of higher education; or

(c) a technology transfer organization whose primary purpose is to facilitate the commercialization of technology developed by an institution of higher education.

(4) This section does not apply to a demand letter or civil action that includes a claim for relief arising under 35 U.S.C. 271(e)(2).

Section 3. Remedies for bad faith assertion of patent right. (1) The attorney general may enforce [sections 1 through 4] and conduct civil investigations and bring civil actions for violations of [sections 1 through 4].

(2) In an action brought by the attorney general under [sections 1 through 4], the court may award or impose any relief available under [section 4].

(3) An intended recipient or affiliated person may bring a cause of action for a violation of [sections 1 through 4] and may seek relief provided for in [section 4].

(4) In addition to the relief provided for in [section 4], upon a motion by the attorney general or a party bringing a claim pursuant to subsection (3) and a finding by the court that there is a reasonable likelihood that a person violated [section 2], the court may require the person to post a bond in an amount equal to a good faith estimate of the costs to litigate a claim and amounts reasonably likely to be recovered if an action were to be brought pursuant to this section. A hearing must be held upon request of any party.

Section 4. Damages. A court may award the following relief to a plaintiff who prevails in an action brought pursuant to [sections 1 through 4]:

(1) compensatory damages;

(2) costs and fees, including reasonable attorney fees; and

(3) punitive damages in an amount equal to three times the total of compensatory damages and costs and fees.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 30, chapter 13, and the provisions of Title 30, chapter 13, apply to [sections 1 through 4].

Section 6. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 187

[SB 79]

AN ACT CLARIFYING THE FUNDING REQUIREMENTS WITH RESPECT TO PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-134 AND 81-1-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-1-134, MCA, is amended to read:

"37-1-134. ~~Fees commensurate with costs~~ *Boards — costs.* ~~Each board allocated to the department shall set board fees related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs.~~ *(1) Each board allocated to the department shall set board fees related to its program area that provide the amount of money usually needed for the operation of the board for services, including but not limited to licensing, reciprocity, renewals, applications, inspections, investigations, compliance, discipline, and audits. The amount needed for the operation of the board is based on the license renewal years as set by the board. In setting the fees, the board must consider the revenues and expenses incurred in the prior 5 licensing renewal years, but a board's cash balances must not exceed two times the board's annual appropriation level.* Unless otherwise provided by law, the department may establish standardized *administrative* fees.~~, including~~ *These fees may include* but *are* not limited to fees for administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect ~~administrative~~ fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the department. Each board and department program shall maintain records sufficient to support the fees charged for each program area.

(2) The department and the boards shall adopt rules regarding all fees."

Section 2. Section 81-1-102, MCA, is amended to read:

"81-1-102. Duties and powers of department — fees based on costs — notice of rules and orders. (1) The department shall exercise general supervision over and, so far as possible, protect the livestock interests of the state from theft and disease and recommend legislation that in the judgment of

the department fosters the livestock industry. The department may compel the attendance of witnesses, employ counsel to assist in the prosecution of violations of laws made for the protection of livestock interests, and assist in the prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

(2) Except as provided in 81-8-901, the department shall by rule establish all fees that it is authorized to charge, commensurate with costs ~~as provided in 37-1-134~~.

(3) (a) In addition to the requirements of Title 2, chapter 4, the department shall provide notice of adopted, amended, and repealed administrative rules and orders as provided in subsection (3)(b).

(b) Within 10 working days of the effective date of a rule or order, notice of the rule or order must be published on the department's website and provided to each livestock market and brand office. The department shall provide the notification by electronic means to each conservation district, veterinarian's office, and county extension office in the state and to any person or to the office of any professional or trade organization or member of those entities who has made a request to the department to be informed of the adoption, amendment, or repeal of a rule or order by the department.

(c) The notice provided pursuant to this subsection (3) must include a brief summary of the contents of the rule or order and instructions for accessing a complete copy of the rule or order electronically or by mail.

(4) The department shall perform the duties assigned to the department relating to the administration and regulation of alternative livestock ranches."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 2, 2015

CHAPTER NO. 188

[SB 109]

AN ACT PROVIDING FOR ATTORNEY FEES AND COSTS FOR THE PROPERTY OWNER IN AN ASSET FORFEITURE PROCEEDING; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Property owner entitled to costs and attorney fees. In an action under this part, if the owner or claimant of seized property is the prevailing party, the court shall award reasonable attorney fees and costs to the owner or claimant. The attorney fees awarded may not exceed the value of the property at issue in the forfeiture proceeding.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 44, chapter 12, part 2, and the provisions of Title 44, chapter 12, part 2, apply to [section 1].

Section 3. Coordination instruction. If both [this act] and House Bill No. 463 are passed and approved, then [this act] is void.

Section 4. Applicability. [This act] applies to forfeiture proceedings under Title 44, chapter 12, part 2, that are filed on or after October 1, 2015.

Approved April 2, 2015

CHAPTER NO. 189

[SB 141]

AN ACT REPEALING THE TERMINATION OF A PROVISION ALLOWING CERTAIN RETIRED TEACHERS, SPECIALISTS, AND ADMINISTRATORS UNDER THE TEACHERS' RETIREMENT SYSTEM TO BE REEMPLOYED IN CERTAIN CIRCUMSTANCES WITHOUT BEING SUBJECT TO THE STANDARD LIMITATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 5, Chapter 129, Laws of 2009, and section 6, Chapter 238, Laws of 2013, are repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 2, 2015

CHAPTER NO. 190

[SB 42]

AN ACT REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN AND THE UNIVERSITY SYSTEM RETIREMENT PROGRAM; AMENDING SECTIONS 19-2-303, 19-2-407, 19-3-2117, AND 19-21-214, MCA; REPEALING SECTION 19-3-2121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17) "Department" means the department of administration.

(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term

includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(28) "Excess earnings" means the difference, if any, between reported compensation and the limits provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average compensation.

(29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(30) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(32) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(33) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(35) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age or both age and length of service, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(36) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

(37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 ~~and that is adjusted by the board pursuant to 19-3-2121~~ to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

(39) "Regular contributions" means contributions required from members under a retirement plan.

(40) "Regular interest" means interest at rates set from time to time by the board.

(41) "Retirement" or "retired" means the status of a member who has:

(a) terminated from service; and

(b) received and accepted a retirement benefit from a retirement plan.

(42) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

(43) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

(44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(45) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(46) "Service" means employment of an employee in a position covered by a retirement system.

(47) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(48) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

(49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(52) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

(53) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection (53), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(54) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(55) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

(56) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, except as provided in subsection (56)(b), a member or the status of a member who has at least 5 years of membership service;

(b) with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10 years of membership service; or

(c) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

(57) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

(58) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

Section 2. Section 19-2-407, MCA, is amended to read:

"19-2-407. Reports. (1) As soon as practical after the close of each fiscal year, the board shall file with the governor and with the legislature pursuant to 5-11-210 a report of its work for that fiscal year. The report must include but is not limited to:

(a) a statement as to the accumulated cash and securities in the pension trust funds as certified by the state treasurer and the board of investments;

(b) a summary of the most recent information available from the actuary concerning the actuarial valuation of the assets and liabilities of each system or plan; and

(c) an analysis of how market performance is affecting actuarial funding of each of the retirement systems or plans.

(2) The report required under subsection (1) must also provide information concerning the defined contribution plan, including a description of the plan, the number of members in the plan, plan contribution rates, the total amount of money invested by members, investment performance, administrative costs and fees, ~~determinations on the plan choice rate made pursuant to 19-3-2121,~~ and other information required under applicable governmental accounting standards and as determined by the board."

Section 3. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. Allocation of contributions and forfeitures. (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to ~~subsection (3) and adjustment by the board as provided in 19-3-2121~~ *subsections (3) and (4)*, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141;

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), the percentage specified in subsection (3) of this section of compensation must be allocated ~~in the following order:~~

~~(i)~~ to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; ~~and~~

~~(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and~~

(c) on July 1, 2013, *and* continuing until ~~the additional employer contributions terminate pursuant to 19-3-316(4)(b)~~ *June 30, 2015, an amount equal to* 1% of compensation must be allocated to the defined benefit plan unfunded liabilities*; and*

(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate. Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must be allocated to the member's retirement account until the additional employer contributions terminate pursuant to 19-3-316(4)(b).

(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal

year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.

(4) Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the 2.37% of compensation in subsection (2)(a)(ii) and the percentage of compensation in subsection (3), if any, must be allocated to the member's retirement account.

~~(4)~~*(5)* Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

Section 4. Section 19-21-214, MCA, is amended to read:

"19-21-214. Contributions and allocations for employees in positions covered under ~~the~~ public employees' retirement system. (1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to ~~subsection~~ *subsections* ~~(3)~~ *(3) and (4)*, of the employer's contribution *received under 19-3-316*:

(a) an amount equal to:

(i) 4.49% of compensation must be allocated to the participant's program account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); ~~and~~

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316*(4)(b)*, *an amount equal to* 0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability*;*

(c) on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must be allocated to the defined benefit plan unfunded liabilities; and

(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate. Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must be allocated to the member's retirement account until the additional employer contributions terminate pursuant to 19-3-316(4)(b).

(3) The percentage of compensation amount to be allocated under subsection (2)(b) must be increased by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation amount to be allocated under subsection (2)(b) must be 1.27%.

~~(3)~~*(4)* ~~The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner~~

~~consistent with the express provisions of 19-3-2121~~ *Effective the first full pay period in the month following the board's verification that the plan choice rate unfunded actuarial liability is paid off, amounts equal to the 2.37% of compensation in subsection (2)(a)(ii) and the percentage of compensation in subsection (2)(b), if any, must be allocated to the member's retirement account*."

Section 5. Repealer. The following section of the Montana Code Annotated is repealed:

19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.

Section 6. Coordination instruction. If House Bill No. 107 is passed and approved, then [this act] is void.

Section 7. Effective date. [This act] is effective July 1, 2015.

Section 8. Retroactive applicability. [Section 4(2)(c) and (3)] applies retroactively, within the meaning of 1-2-109, to contributions under 19-21-214(2)(b) made on and after July 1, 2013.

Approved April 6, 2015

CHAPTER NO. 191

[SB 74]

AN ACT ALLOCATING ADDITIONAL EMPLOYER CONTRIBUTIONS FOR MONTANA UNIVERSITY SYSTEM EMPLOYEES WHO ARE IN POSITIONS COVERED UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTION 19-21-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-21-214, MCA, is amended to read:

"19-21-214. Contributions and allocations for employees in positions covered under ~~the~~ public employees' retirement system. (1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to subsection (3) *and adjustment by the public employees' retirement board as provided in 19-3-2121*, of the employer's contribution *received under 19-3-316*:

(a) an amount equal to:

(i) 4.49% of compensation must be allocated to the participant's program account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); ~~and~~

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316*(4)(b)*, ~~0.27% of compensation~~ *an amount equal to the percentage of compensation specified in subsection (3) of this section* must

be allocated to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability*; and*

(c) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), an amount equal to 1% of compensation must be allocated to the defined benefit plan unfunded liabilities.

(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.

~~(3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121.~~"

Section 2. Coordination instruction. If either House Bill No. 107 or Senate Bill No. 42, or both, are passed and approved, then [this act] is void.

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to fiscal years beginning after June 30, 2013.

Approved April 4, 2015

CHAPTER NO. 192

[HB 36]

AN ACT ALLOWING A CHANGE OF A WATER RIGHT PERMIT VOLUME FOR FAILURE TO COMPLETE APPROPRIATION WITHIN THE PERMIT TIME LIMIT; AMENDING SECTIONS 85-2-312 AND 85-2-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-312, MCA, is amended to read:

"85-2-312. Terms of permit. (1) (a) The department may issue a permit for less than the amount of water requested, but may not issue a permit for more water than is requested or than can be beneficially used without waste for the purpose stated in the application. The department may require modification of plans and specifications for the appropriation or related diversion or construction. The department may issue a permit subject to terms, conditions, restrictions, and limitations it considers necessary to satisfy the criteria listed in 85-2-311 and subject to subsection (1)(b), and it may issue temporary or seasonal permits. A permit must be issued subject to existing rights and any final determination of those rights made under this chapter.

(b) If the permit is for use of water with a point of diversion, conveyance, or place of use on national forest system lands, the permit is subject to any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of the water under the permit and any terms, conditions, and limitations related to the use of water contained in any special use authorization required by federal law.

(2) The department shall specify in the permit or in any authorized extension of time provided in subsection (3), the time limits for commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use. In fixing those time limits, the department shall consider the cost and magnitude of the project, the

engineering and physical features to be encountered, and, on projects designed for gradual development and gradually increased use of water, the time reasonably necessary for that gradual development and increased use. The department shall issue the permit or authorized extension of time subject to the terms, conditions, restrictions, and limitations it considers necessary to ensure that the work on the appropriation is commenced, conducted, and completed and that the water is actually applied in a timely manner to the beneficial use specified in the permit.

(3) The department shall by rule or by condition to a permit establish a process allowing for the extension of the time limits specified in the permit for commencement of the appropriation works, completion of construction, and actual application of water to the proposed beneficial use.

(4) (a) If commencement of the appropriation works, completion of construction, or the actual application of water to the proposed beneficial use is not completed within the time limit specified or within an extension of that time limit, the permit ~~is void upon lapse of the time limit~~ *expires*.

(b) The department shall reinstate an expired permit if the permittee files a written reinstatement request and a project completion notice on forms provided by the department. The reinstatement request and project completion notice must establish the amount of water actually applied to the proposed beneficial use prior to expiration of the permit. Reinstatement of an expired permit under this subsection (4)(b) may not exceed the amount of water actually applied to the proposed beneficial use under the terms of the permit prior to expiration of the permit.

(c) The department shall reinstate the full amount of water authorized by the expired permit, including any portion that was not actually applied to the proposed beneficial use prior to expiration of the permit, if the permittee:

(i) files a written reinstatement request with the department on a form provided by the department;

(ii) proves by clear and convincing evidence that the failure to comply with the permit time limit was the result of excusable neglect; and

(iii) demonstrates that the requirements for an extension of the time limit as set forth by rule or permit condition are satisfied.

(d) A written reinstatement request for an expired permit must be filed within 2 years of the expiration of the permit time limit.

(e) A permit must be reinstated no more than once pursuant to this subsection (4) if the criteria in this subsection (4) have been met. A reinstated permit under subsection (4)(c) must establish time limits for commencement of the appropriation works, completion of construction, and actual application of the water to the proposed beneficial use.

~~(4)~~*(5)* The original of the permit must be sent to the permittee, and a copy must be kept in the office of the department in Helena. *The department shall retain an expired permit in the centralized record system for 2 years.*"

Section 2. Section 85-2-402, MCA, is amended to read:

"85-2-402. Changes in appropriation rights — definition. (1) (a) The right to make a change in appropriation right subject to the provisions of this section in an existing water right, a permit, or a state water reservation is recognized and confirmed. In a change in appropriation right proceeding under this section, there is no presumption that an applicant for a change in appropriation right cannot establish lack of adverse effect prior to the adjudication of other rights in the source of supply pursuant to this chapter.

Except as provided in 85-2-410 and subsections (15) and (16) of this section, an appropriator may not make a change in an appropriation right without the approval of the department or, if applicable, of the legislature. An applicant shall submit a correct and complete application.

(b) If an application involves a change in a point of diversion, conveyance, or place of use located on national forest system lands, the application is not correct and complete until the applicant has submitted proof to the department of any written special use authorization required by federal law for the proposed change in occupancy, use, or traverse of national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water.

(2) Except as provided in subsections (4) through (6), (15), (16), and (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3.

(b) The proposed means of diversion, construction, and operation of the appropriation works are adequate, except for:

(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(c) The proposed use of water is a beneficial use.

(d) The applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use or, if the proposed change involves a point of diversion, conveyance, or place of use on national forest system lands, the applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water. This subsection (2)(d) does not apply to:

(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(e) If the change in appropriation right involves salvaged water, the proposed water-saving methods will salvage at least the amount of water asserted by the applicant.

(f) The water quality of an appropriator will not be adversely affected.

(g) The ability of a discharge permitholder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.

(3) The applicant is required to prove that the criteria in subsections (2)(f) and (2)(g) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (2)(f) or (2)(g), as applicable, may not be met.

(4) The department may not approve a change in purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water unless the appropriator proves by a preponderance of evidence that:

(a) the criteria in subsection (2) are met; and

(b) the proposed change in appropriation right is a reasonable use. A finding of reasonable use must be based on a consideration of:

(i) the existing demands on the state water supply, as well as projected demands for water for future beneficial purposes, including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;

(ii) the benefits to the applicant and the state;

(iii) the effects on the quantity and quality of water for existing uses in the source of supply;

(iv) the availability and feasibility of using low-quality water for the purpose for which application has been made;

(v) the effects on private property rights by any creation of or contribution to saline seep; and

(vi) the probable significant adverse environmental impacts of the proposed use of water as determined by the department pursuant to Title 75, chapter 1, or Title 75, chapter 20.

(5) The department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water being consumed unless:

(a) the applicant proves by clear and convincing evidence and the department finds that the criteria in subsections (2) and (4) are met; and

(b) for the withdrawal and transportation of appropriated water for out-of-state use, the department then petitions the legislature and the legislature affirms the decision of the department after one or more public hearings.

(6) The state of Montana has long recognized the importance of conserving its public waters and the necessity to maintain adequate water supplies for the state's water requirements, including requirements for federal non-Indian and Indian reserved water rights held by the United States for federal reserved lands and in trust for the various Indian tribes within the state's boundaries. Although the state of Montana also recognizes that, under appropriate conditions, the out-of-state transportation and use of its public waters are not in conflict with the public welfare of its citizens or the conservation of its waters, the following criteria must be met before out-of-state use may occur:

(a) The department and, if applicable, the legislature may not approve a change in appropriation right for the withdrawal and transportation of appropriated water for use outside the state unless the appropriator proves by clear and convincing evidence and, if applicable, the legislature approves after one or more public hearings that:

(i) depending on the volume of water diverted or consumed, the applicable criteria and procedures of subsection (2) or (4) are met;

(ii) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(iii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(b) In determining whether the appropriator has proved by clear and convincing evidence that the requirements of subsections (6)(a)(ii) and (6)(a)(iii) will be met, the department and, if applicable, the legislature shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the proposed change in appropriation might feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(c) When applying for a change in appropriation right to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation and use of water.

(7) For any application for a change in appropriation right involving 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water, the department shall give notice of the proposed change in appropriation right in accordance with 85-2-307 and shall hold one or more hearings in accordance with 85-2-309 prior to its approval or denial of the proposed change in appropriation right. The department shall provide notice and may hold one or more hearings upon any other proposed change in appropriation right if it determines that the proposed change in appropriation right might adversely affect the rights of other persons.

(8) The department or the legislature, if applicable, may approve a change in appropriation right subject to the terms, conditions, restrictions, and limitations that it considers necessary to satisfy the criteria of this section, including limitations on the time for completion of the change in appropriation right. The department may extend time limits specified in the change in appropriation right approval under the applicable criteria and procedures of 85-2-312~~(3)~~.

(9) Upon actual application of water to the proposed beneficial use within the time allowed, the appropriator shall notify the department that the appropriation has been completed. The notification must contain a certified statement by a person with experience in the design, construction, or operation of appropriation works describing how the appropriation was completed.

(10) If a change in appropriation right is not completed as approved by the department or legislature or if the terms, conditions, restrictions, and limitations of the change in appropriation right approval are not complied with, the department may, after notice and opportunity for hearing, require the appropriator to show cause why the change in appropriation right approval should not be modified or revoked. If the appropriator fails to show sufficient

cause, the department may modify or revoke the change in appropriation right approval.

(11) The original of a change in appropriation right approval issued by the department must be sent to the applicant, and a duplicate must be kept in the office of the department in Helena.

(12) A person holding an issued permit or change in appropriation right approval that has not been perfected may change the place of diversion, place of use, purpose of use, or place of storage by filing an application for change in appropriation right pursuant to this section.

(13) A change in appropriation right contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized change in appropriation right. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to change an appropriation right except in accordance with this section.

(14) The department may adopt rules to implement the provisions of this section.

(15) (a) An appropriator may change an appropriation right for a replacement well without the prior approval of the department if:

(i) the appropriation right is for:

(A) ground water outside the boundaries of a controlled ground water area; or

(B) ground water inside the boundaries of a controlled ground water area and if the provisions of the rule establishing the controlled ground water area do not restrict a change in appropriation right;

(ii) the change in appropriation right is to replace an existing well and the existing well will no longer be used;

(iii) the rate and volume of the appropriation from the replacement well are equal to or less than that of the well being replaced and do not exceed:

(A) 450 gallons a minute for a municipal well; or

(B) 35 gallons a minute and 10 acre-feet a year for all other wells;

(iv) the water from the replacement well is appropriated from the same aquifer as the water appropriated from the well being replaced; and

(v) a timely, correct and complete notice of replacement well is submitted to the department as provided in subsection (15)(b).

(b) (i) After completion of a replacement well and appropriation of ground water for a beneficial use, the appropriator shall file a notice of replacement well with the department on a form provided by the department.

(ii) (A) The department shall review the notice of replacement well and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (15)(a) have been met and the notice is correct and complete.

(B) If the replacement well is located on national forest system lands, the notice is not correct and complete under this subsection (15) until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the replacement well.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement well has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The

appropriator shall refile a corrected and completed notice of replacement well within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement well is not completed within the time allowed, the appropriator shall:

(A) cease appropriation of water from the replacement well pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (15) do not apply to an appropriation right abandoned under 85-2-404.

(d) For each well that is replaced under this subsection (15), the appropriator shall follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202.

(e) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (15)(a).

(16) (a) An appropriator may change an appropriation right without the prior approval of the department for the purpose of constructing a redundant water supply well in a public water supply system, as defined in 75-6-102, if the redundant water supply well:

(i) withdraws water from the same ground water source as the original well; and

(ii) is required by a state or federal agency.

(b) The priority date of the redundant water supply well is the same as the priority date of the original well. Only one well may be used at one time.

(c) Within 60 days of completion of a redundant water supply well, the appropriator shall file a notice of construction of the well with the department on a form provided by the department. The department may return a defective notice of construction to the appropriator for correction and completion. If the redundant water supply well is located on national forest system lands, the notice is not correct and complete under this subsection until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the redundant water supply well.

(d) The provisions of subsections (9) and (10) do not apply to a change in appropriation right that meets the requirements of this subsection (16).

(17) The department shall accept and process an application for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320 and this section and to benefit the fishery resource pursuant to 85-2-436 and this section.

(18) (a) An appropriator may change an appropriation right for a replacement point of diversion without the prior approval of the department if:

(i) the existing point of diversion is inoperable due to natural causes or deteriorated infrastructure;

(ii) there are no other changes to the water right;

(iii) the capacity of the diversion is not increased;

(iv) there are no points of diversion or intervening water rights between the existing point of diversion and the replacement point of diversion or the appropriator obtains written waivers from all intervening water right holders;

(v) the replacement point of diversion is on the same surface water source and is located as close as reasonably practicable to the existing point of diversion;

(vi) the replacement point of diversion replaces an existing point of diversion and the existing point of diversion will no longer be used;

(vii) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for change of appropriation right for a replacement point of diversion;

(viii) the appropriator can show the change will not increase access to water availability, change the method of irrigation, if applicable, or increase the amount of water diverted, used, or consumed; and

(ix) a timely, correct and complete notice of replacement point of diversion is submitted to the department as provided in subsection (18)(b).

(b) (i) Within 60 days after completion of a replacement point of diversion, the appropriator shall file a notice of replacement point of diversion with the department on a form provided by the department.

(ii) The department shall review the notice of replacement point of diversion and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (18)(a) have been met and the notice is correct and complete. The department may inspect the diversion to confirm that the criteria under subsection (18)(a) have been met. If the department issues an authorization of a change in an appropriation right for a replacement point of diversion, the department shall prepare a notice of the authorization and provide notice of the authorization in the same manner as required in 85-2-307 for applications.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement point of diversion has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement point of diversion within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement point of diversion is not filed and completed within the time allowed or if the department determines the criteria under subsection (18)(a) have not been met, the appropriator shall:

(A) cease appropriation of water from the replacement point of diversion pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (18) do not apply to an appropriation right abandoned under 85-2-404.

(d) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (18)(a).

(e) (i) An appropriator may file a correct and complete objection with the department alleging that the change in appropriation right for a replacement point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(ii) If the department determines after a contested case hearing between the appropriator and the objector that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations necessary to protect the rights of other appropriators.

(iii) The burden of proof to prove lack of adverse effect at the hearing is on the appropriator changing the point of diversion."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 193

[HB 39]

AN ACT ALLOWING USE OF ELECTRONIC FUNDS TRANSFERS FOR CERTAIN PAYMENTS RELATED TO THE SALE AND LEASE OF STATE TRUST LAND; AND AMENDING SECTIONS 77-1-905 AND 77-2-363, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-905, MCA, is amended to read:

"77-1-905. Rental provisions for commercial leasing — payments and credits — administration — lease options. (1) The first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check *or electronic funds transfer, as defined in 32-6-103*, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department's cost of the request for proposals process, including publication and other reasonable expenses. Failure to ~~pay~~ *make* the first year's rental *payment* at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

(2) The board shall specify in any commercial lease an annual rental *payment* equal to the full market rental value of the land. The annual ~~rent~~ *rental payment* may not be less than the product of the appraised value of the land multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used in this subsection must be determined no less than 30 days prior to the execution of the competitive bid. A commercial lease may include a rental adjustment formula established by the board that periodically adjusts the annual ~~rent~~ *rental payment* provided for in the lease at frequencies specified in the lease. The board may allow a credit against the annual ~~rent due~~ *rental payment* for payments made by the lessee on behalf of the state of Montana for construction of structures and improvements, special improvement district assessments, annexation fees, or other city or county fees attributable to the state's property interest in land leased for commercial purposes. The board may accept as lawful consideration in-kind payments of services or materials equal to the full market *rental* value ~~of the rent~~ calculated ~~to be owed on~~ *for* any commercial lease. A lease issued under this part may include an amortization schedule to be used to determine the value to the lessee of improvements when the lease is terminated.

(3) The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

(4) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental rate that the board determines to be appropriate. An option to lease may not exceed a term of 2 years. An option to lease may not be construed to grant a right of immediate possession or control over the land but may only preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."

Section 2. Section 77-2-363, MCA, is amended to read:

"77-2-363. Land banking land sales and limitations — sale preparation costs. (1) (a) The board may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any one time during the life of the land banking process, the board may not sell more than 20,000 acres of state land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

(b) The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser.

(2) (a) A person bidding to purchase state land offered for sale shall 20 days prior to the day of auction deposit with the department a bid bond in the form of a certified check or cashier's check drawn on any Montana bank *or an electronic funds transfer, as defined in 32-6-103,* equal to at least 20% of the minimum sale price specified by the department pursuant to 77-2-323(1) to guarantee the bidder's payment of the purchase price. Bid bonds submitted to secure a bid on a parcel formerly leased as a cabin or home site need only be equal to 5% of the minimum sale price as specified by the department.

(b) If the current lessee of the land to be sold has initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the department at least 10 days prior to the day of the auction. When the sale is canceled by the lessee, the lessee shall pay the costs incurred by the department for the preparation of the sale, including any costs incurred for preparation of documents required by 75-1-201.

(c) The department shall retain the bid bond of the successful bidder and shall return the bid bonds of the unsuccessful bidders. If the successful bidder fails to comply with the terms of the sale for any reason, the successful bidder's bid bond must be forfeited and credited to the interest and income account of the proper trust.

(3) Except for a sale that is initiated by the lessee of the parcel of land proposed for sale, prior to the proposed sale of any parcel of state land under the land banking process, the board shall give 60 days' notice of the proposed sale to the lessee of the parcel to allow the lessee sufficient time to determine whether the lessee wishes to propose an exchange of the land to the board.

(4) For a sale initiated by the board, the department, or the cabin or home site lessee, the lessee of the land must be afforded all the rights and privileges to match the high bid as provided in 77-2-324.

(5) (a) Except as provided in subsection (6), when the lessee has initiated a sale of land under this section, the lessee shall remit to the department the

estimated costs of preparing the parcel for sale, including but not limited to appraisals, cultural surveys, environmental review pursuant to Title 75, chapter 1, parts 1 through 3, and land surveys, if necessary. Payment must be made within 10 days after the board has provided preliminary approval for the sale of the parcel.

(b) If the parcel is sold to the lessee, the funds remitted for the costs of the sale must be applied to the actual costs at closing. If the parcel is sold to a party other than the lessee, the funds remitted by the lessee must be refunded to the lessee and *the* actual costs of preparing the parcel for sale must be assessed to the purchaser at closing.

(6) For the sale of a parcel formerly leased as a cabin or home site:

(a) the department shall assume the cost of the land survey; and

(b) the sale is exempt from the provisions of Title 75, chapter 1, parts 1 through 3."

Approved April 8, 2015

CHAPTER NO. 194

[HB 40]

AN ACT REVISING APPOINTMENT AND TERMS OF MEMBERS TO BOARDS OF ADJUSTMENTS FOR CONSERVATION DISTRICTS; AMENDING SECTIONS 76-15-706, 76-15-721, AND 76-15-722, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-15-706, MCA, is amended to read:

"76-15-706. Contents of land use regulations. (1) The regulations to be adopted by the supervisors under the provisions of 76-15-701 through 76-15-707 may include:

(a) provisions requiring the carrying out of necessary engineering operations, including the construction of water spreaders, terraces, terrace outlets, check dams, dikes, ponds, ditches, fences, and other necessary structures;

(b) provisions requiring observance of particular methods of cultivation or grazing, including contour cultivating, contour furrowing, *and* lister furrowing~~,~~*;* sowing, planting, *and* strip cropping~~,~~*;* seeding~~,~~ and planting of lands to ~~water conserving~~ *water-conserving* and ~~erosion preventing~~ *erosion-preventing* plants, trees, and grasses~~,~~*; and* forestation and reforestation;

(c) specifications of cropping and range programs and tillage and grazing practices to be observed;

(d) provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on; *and*

(e) provisions for ~~such~~ other means, measures, operations, and programs ~~as~~ *that* may assist conservation of soil and water resources and prevent or control erosion in the district, having due regard to the legislative findings set forth in 76-15-101 and 76-15-102.

(2) The regulations must provide for the establishment of a board of adjustment pursuant to 76-15-721.

~~(2)~~*(3)* The regulations ~~shall~~ *must* be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of *threatened or existing* erosion, ~~threatened or existing,~~ grazing and cropping programs, tillage and range practices in use, and other relevant factors and may provide regulations varying with the type or class of land affected but uniform as to all lands within each class or type."

Section 2. Section 76-15-721, MCA, is amended to read:

"76-15-721. Board of adjustment. ~~(1) When the supervisors of a district adopt an ordinance prescribing land use regulations in accordance with 76-15-701 through 76-15-707, they shall further provide by ordinance for the establishment of a board of adjustment.~~

~~(2)~~*(1)* ~~The~~ *A* board of adjustment ~~consists~~ *consisting* of three members~~, each to be appointed for a term of 3 years, except that the members first appointed must be appointed for terms of 1, 2, and 3 years, respectively~~ *must be appointed to decide a petition for variance pursuant to 76-15-723*.

~~(3)~~*(2) (a) (i)* ~~The members of each board of adjustment must be appointed by the department with the advice and approval of the supervisors of the district for which the board has been established.~~ *On filing of a petition pursuant to 76-15-723, the department shall appoint members to the board of adjustment, subject to the approval of the district supervisors.*

(ii) After a board is appointed pursuant to subsection (2)(a)(i), that board serves until it reaches a final decision on the petition.

(b) The members may be removed by the department, ~~upon~~ *on* notice and hearing, only for neglect of duty or malfeasance in office. The hearing must be conducted jointly by the department and the supervisors of the district.

(c) Employees of the department and the supervisors of the district are ineligible to appointment as members of the board of adjustment.

~~(4)~~*(3)* Vacancies in the board of adjustment must be filled in the same manner as original appointments ~~and are for the unexpired term of the member whose term becomes vacant~~.

~~(5)~~*(4)* The members of the board of adjustment receive compensation for their services at the rate of $25 a day for time spent on the work of the board in addition to expenses, including travel expenses, as provided for in 2-18-501 through 2-18-503, necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board upon the certificate of the presiding officer of the board."

Section 3. Section 76-15-722, MCA, is amended to read:

"76-15-722. Operation of board of adjustment. (1) The board of adjustment shall adopt rules to govern its procedures. The rules must be in accordance with this chapter and with the ordinance establishing the board of adjustment.

(2) The board shall ~~annually~~ elect a presiding officer from among its members. Meetings of the board must be held at the call of the presiding officer and at other times that the board may determine. Any two members of the board constitute a quorum. The presiding officer or in the presiding officer's absence another member of the board that the presiding officer may designate to serve as acting presiding officer may administer oaths and compel the attendance of witnesses.

(3) All meetings of the board must be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which must be filed in the office of the board and are a public record."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 195

[HB 49]

AN ACT REVISING THE BOARD OF LAND COMMISSIONERS' REQUIREMENTS FOR REPORTING TO STATE TRUST LAND BENEFICIARIES; AMENDING SECTION 77-1-223, MCA; AND REPEALING SECTIONS 77-1-224 AND 77-1-225, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-223, MCA, is amended to read:

"77-1-223. ~~Forest~~ *State trust* land report to trust beneficiaries — contents. *(1)* The board shall annually prepare ~~and provide to each beneficiary of a trust a separate financial report on the forested lands classified by 77-1-401 as Class 2~~ *a report on state trust* lands that ~~are~~ *summarizes the land* held in trust for ~~the~~ *each* beneficiary *by land classification*.

(2) The report must include *the asset value and financial performance of the land held* for each beneficiary~~:~~

~~(1) the total acreage of forested land held in trust;~~

~~(2) a summary of the asset value of the forested tracts held in trust;~~

~~(3) a calculation of the average return of revenue on asset value for the forested tracts held in trust; and~~

~~(4) a listing by each department land office of the total acreage of forested land administered for the trust beneficiary and a calculation of the average return of revenue on asset value for lands designated to the trust beneficiary.~~ *as calculated using the best available methodology and data.*

(3) The board shall provide a copy of the report to the beneficiary of each trust at the end of each fiscal year."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

77-1-224. Asset value and average return of revenue methods described.

77-1-225. Annual report provided.

Approved April 8, 2015

CHAPTER NO. 196

[HB 100]

AN ACT REVISING THE DUTIES OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL RELATED TO CERTIFICATION OF PUBLIC SAFETY OFFICERS; REMOVING REFERENCES TO THE GENERAL EDUCATIONAL DEVELOPMENT TEST; ALLOWING CERTAIN MENTAL HEALTH PROFESSIONALS TO EXAMINE AND EVALUATE THE MENTAL HEALTH OF A PEACE OFFICER CANDIDATE; ALLOWING

SUBSTITUTION OF A STANDARDIZED MENTAL HEALTH EVALUATION INSTRUMENT FOR THE MENTAL HEALTH EXAMINATION; REVISING CERTAIN COURSE REQUIREMENTS; REMOVING APPLICATION REQUIREMENTS BEFORE THE COUNCIL ISSUES A CERTIFICATE TO A PUBLIC SAFETY OFFICER WHO MEETS CERTAIN EDUCATIONAL AND PROBATIONARY REQUIREMENTS; ESTABLISHING THE COUNCIL AS A CRIMINAL JUSTICE AGENCY FOR THE PURPOSES OF THE MONTANA CRIMINAL JUSTICE INFORMATION ACT; AMENDING SECTIONS 7-32-303 AND 44-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-32-303, MCA, is amended to read:

"7-32-303. Peace officer employment, education, and certification standards — suspension or revocation — penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

(c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;

(d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

(e) be of good moral character, as determined by a thorough background investigation;

(f) be a high school graduate or have ~~passed the general educational development test and~~ been issued ~~an equivalency certificate~~ *a high school equivalency diploma* by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) *(i)* be examined by a licensed physician *or*, *for the purposes of a mental health evaluation, a person who is licensed by the state under Title 37 and acting within the scope of the person's licensure,* who is not the applicant's personal physician *or licensed mental health professional*, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer; *or*

(ii) (A) satisfactorily complete the physical examination required by subsection (2)(g)(i); and

(B) complete a standardized mental health evaluation instrument determined by the employing authority to be sufficient to examine for any mental health conditions that might adversely affect the performance by the applicant of the duties of a peace officer if the instrument is scored by a mental health professional acting within the scope of licensure by any state and the mental health professional finds that the applicant is free of any such mental health condition;

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

(i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment, a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice of the event must be given to the Montana public safety officer standards and training council by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the Montana public safety officer standards and training council and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace officer's course that is taught by a federal, state, or United States military law enforcement agency and that is reviewed and approved by the Montana public safety officer standards and training council as equivalent with current training in Montana and whose last date of employment as a peace officer or member of the military law enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully completing a basic equivalency course administered by the Montana law enforcement academy. The prior employment of a member of the military law enforcement must be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer fails the basic equivalency course, the peace officer shall complete the *next available* appropriate basic ~~equivalency~~ course ~~within 120 days of the date of the failure of the equivalency course~~.

(6) The Montana public safety officer standards and training council may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic

equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must~~, upon application to the Montana public safety officer standards and training council,~~ be issued a basic certificate by the council~~,~~ certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the Montana public safety officer standards and training council to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed $500, or both."

Section 2. Section 44-4-403, MCA, is amended to read:

"44-4-403. Council duties — determinations — appeals. (1) The council shall:

(a) establish basic and advanced qualification and training standards for employment;

(b) conduct and approve training; and

(c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided for in 44-4-301. A decision of the board of crime control is a final agency decision subject to judicial review.

(4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 197

[HB 111]

AN ACT REVISING SENTENCING FOR FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AMENDING SECTION 61-8-731, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — penalty for fourth or subsequent offense. (1) Except as provided in subsection (3), if a person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a single conviction under 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of *not less than* 13 months *or more than 2 years*. The court shall order that if the person successfully completes a residential alcohol treatment program ~~operated or~~ approved by the department of corrections, the remainder of the ~~13-month~~ sentence must be served on probation. The imposition or execution of the ~~13-month~~ sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than $1,000 or more than $10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program ~~operated or~~ approved by the department of corrections ~~or in a state prison~~.

(3) If a person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a single conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205, 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined an amount of not less than $1,000 or more than $10,000, or both.

(4) The court shall, as a condition of probation, order:

(a) that the person abide by the standard conditions of probation promulgated by the department of corrections;

(b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;

(c) that the person may not frequent an establishment where alcoholic beverages are served;

(d) that the person may not consume alcoholic beverages;

(e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

(f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;

(g) that the person submit to random or routine drug and alcohol testing; and

(h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

(5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

(a) payment of a fine as provided in 46-18-231;

(b) payment of costs as provided in 46-18-232 and 46-18-233;

(c) payment of costs of assigned counsel as provided in 46-8-113;

(d) community service;

(e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or

(f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

(6) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.

(7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section."

Section 2. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved April 8, 2015

CHAPTER NO. 198

[HB 135]

AN ACT REVISING PAROLE CRITERIA; EXPANDING EXISTING RULEMAKING AUTHORITY OF THE BOARD OF PARDONS AND PAROLE; AND AMENDING SECTIONS 46-23-201 AND 46-23-202, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Nonmedical parole criteria — information board may consider. (1) The board may release an eligible prisoner on nonmedical parole only when:

(a) there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community;

(b) release is in the best interests of society;

(c) the prisoner is able and willing to fulfill the obligations of a law-abiding citizen; and

(d) the prisoner does not require:

(i) continued correctional treatment; or

(ii) other programs available in a correctional facility that will substantially enhance the prisoner's capability to lead a law-abiding life if released, including mental health therapy or vocational training.

(2) Parole may not be ordered as an award of clemency or a reduction of sentence or pardon.

(3) For a prisoner sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312:

(a) the board may require as a condition of parole participation in a supervised mental health treatment program to ensure that the prisoner continues to treat the prisoner's mental disorder; and

(b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (3)(a), in which case the prisoner must be recommitted to the custody of the director of the department of public health and human services pursuant to 46-14-312.

(4) In making its determination regarding nonmedical parole release, a hearing panel shall consider all available and pertinent information regarding the prisoner, including the following factors:

(a) the circumstances of the offense;

(b) the prisoner's social history and prior criminal record, including the nature and circumstances of the offense, date of offense, and frequency of previous offenses;

(c) the prisoner's conduct, employment, and attitude in prison, including particularly whether the prisoner has taken advantage of opportunities for treatment and whether the prisoner is clear of major disciplinary violations prior to the hearing;

(d) the reports of any physical, psychological, and mental evaluations that have been made;

(e) the prisoner's maturity, stability, sense of responsibility, and development of traits and behaviors that increase the likelihood the prisoner will conform the prisoner's behavior to the requirements of law;

(f) the adequacy of the prisoner's release plan;

(g) the prisoner's ability and readiness to assume obligations and undertake responsibilities;

(h) the prisoner's education and training;

(i) the prisoner's family status and whether the prisoner has relatives who display an interest or whether the prisoner has other close and constructive associations in the community;

(j) the prisoner's employment history and occupational skills and the stability of the prisoner's past employment;

(k) the type of residence, neighborhood, or community in which the prisoner plans to live;

(l) the prisoner's past use of chemicals, including alcohol, and past habitual or abusive use of chemicals;

(m) the prisoner's mental and physical makeup;

(n) the prisoner's attitude toward law and authority;

(o) the prisoner's behavior and attitude during any previous experience of supervision and the recency of the supervision;

(p) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the offender should be paroled.

(q) whether parole at this time would diminish the seriousness of the offense; and

(r) any and all other factors that the hearing panel determines to be relevant.

(5) A victim's statement may be kept confidential.

Section 2. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for nonmedical parole — rulemaking. (1) Subject to the restrictions contained in subsections (2) through ~~(5)~~ *(4)* and ~~when in the board's opinion there is reasonable probability that a prisoner can be released without detriment to the prisoner or to the community~~ *the parole criteria in [section 1]*, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a youth correctional facility;

(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

~~(5) A parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.~~

~~(6) For a prisoner sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312:~~

~~(a) the board may require as a condition of parole participation in a supervised mental health treatment program to ensure that the prisoner continues to treat the prisoner's mental disorder; and~~

~~(b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (6)(a), in which case the prisoner must be recommitted to the custody of the director of the department of public health and human services pursuant to 46-14-312.~~

~~(7)~~*(5)* If a hearing panel denies parole, it may order that the prisoner serve up to 6 years before a hearing panel conducts another hearing or review. The board shall adopt by administrative rule a process by which a prisoner may request an earlier hearing or review."

Section 3. Section 46-23-202, MCA, is amended to read:

"46-23-202. Initial parole hearing — ~~conduct of hearing~~. Within the 2 months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing

before a hearing panel. The hearing panel shall consider all available and pertinent information regarding the prisoner, including~~:~~

~~(1) the circumstances of the offense;~~

~~(2) the prisoner's previous social history and criminal record;~~

~~(3) the prisoner's conduct, employment, and attitude in prison;~~

~~(4) the reports of any physical, psychological, and mental evaluations that have been made; and~~

~~(5) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the prisoner should be paroled. The victim's statement may be kept confidential~~ *the criteria in [section 1]*."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 23, part 2, and the provisions of Title 46, chapter 23, part 2, apply to [section 1].

Approved April 3, 2015

CHAPTER NO. 199

[HB 241]

AN ACT CLARIFYING THAT CERTAIN AUTHORIZED EMERGENCY VEHICLES ARE NOT CONSIDERED COMMERCIAL MOTOR VEHICLES; AND AMENDING SECTION 61-1-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes upon behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; and

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency ~~service~~ vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) ~~entitled to the exemptions granted under 61-8-107~~ *operated when responding to or returning from an emergency call or operated in another official capacity*;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design;

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (14)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, upon or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license or permit limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or instruction permit;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, upon or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215;

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) The term does not include a tractor, a bicycle as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSIA/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.

(45) (a) "Motorized nonstandard vehicle" means a vehicle, upon or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include an electric personal assistive mobility device or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; and

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a

manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle, registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property upon the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated upon rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted upon by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, given away, or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(89) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) "Vehicle" means a device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Approved April 8, 2015

CHAPTER NO. 200

[HB 272]

AN ACT CREATING THE UNIFORM COLLABORATIVE LAW ACT; PROVIDING DEFINITIONS AND REQUIREMENTS FOR PARTICIPATION IN THE COLLABORATIVE LAW PROCESS; PROVIDING A DESCRIPTION OF THE COLLABORATIVE LAW AGREEMENT; REQUIRING NOTIFICATION OF A COURT WHEN ENTERING THE COLLABORATIVE LAW PROCESS; REQUIRING FULL DISCLOSURE OF INFORMATION TO THE OPPOSING PARTY; REQUIRING A COLLABORATIVE LAWYER TO MAKE REASONABLE INQUIRY INTO WHETHER THE PARTIES HAVE A HISTORY OF A VIOLENT RELATIONSHIP; PROVIDING PRIVILEGES AGAINST DISCLOSURE FOR COLLABORATIVE LAW COMMUNICATIONS; AND PROVIDING AUTHORITY FOR A COURT TO ENFORCE A COLLABORATIVE LAW AGREEMENT IN THE CASE OF NONCOMPLIANCE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 21] may be cited as the "Uniform Collaborative Law Act".

Section 2. Definitions. (1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:

(a) is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(b) occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(a) sign a collaborative law participation agreement; and

(b) are represented by collaborative lawyers.

(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, that is described in a collaborative law participation agreement.

(6) "Law firm" means:

(a) lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association; and

(b) lawyers employed in a legal services organization, or the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(8) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Proceeding" means:

(a) a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery; or

(b) a legislative hearing or similar process.

(11) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Tribunal" means:

(a) a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity that, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

(b) a legislative body conducting a hearing or similar process.

Section 3. Collaborative law participation agreement — requirements. (1) A collaborative law participation agreement must:

(a) be in a record;

(b) be signed by the parties;

(c) state the parties' intention to resolve a collaborative matter through a collaborative law process under [sections 1 through 21];

(d) describe the nature and scope of the matter;

(e) identify the collaborative lawyer who represents each party in the process; and

(f) contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with [sections 1 through 21].

Section 4. Beginning and concluding collaborative law process. (1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by a:

(a) resolution of a collaborative matter as evidenced by a signed record;

(b) resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or

(c) termination of the process.

(4) A collaborative law process terminates:

(a) when a party gives notice to other parties in a record that the process is ended;

(b) when a party:

(i) begins a proceeding related to a collaborative matter without the agreement of all parties; or

(ii) in a pending proceeding related to the matter:

(A) initiates a pleading, motion, order to show cause, or request for a conference with the tribunal;

(B) requests that the proceeding be scheduled for trial; or

(C) takes a similar action requiring notice to be sent to the parties; or

(c) except as otherwise provided by subsection (7), when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(5) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (5) is sent to the parties:

(a) the unrepresented party engages a successor collaborative lawyer; and

(b) in a signed record:

(i) the parties consent to continue the process by reaffirming the collaborative law participation agreement;

(ii) the agreement is amended to identify the successor collaborative lawyer; and

(iii) the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

Section 5. Proceedings pending before tribunal — status report. (1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject to subsection (3) and [sections 6 and 7], the filing operates as an application for a stay of the proceeding.

(2) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (1) is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under subsection (1) may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(4) A tribunal may not consider a communication made in violation of subsection (3).

(5) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

Section 6. Emergency order. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party.

Section 7. Approval of agreement by tribunal. A tribunal may approve an agreement resulting from a collaborative law process.

Section 8. Disqualification of collaborative lawyer and lawyers in associated law firm. (1) Except as provided in subsection (3), a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as provided in subsection (3) and [sections 9 and 10], a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from

appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection (1).

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) to ask a tribunal to approve an agreement resulting from the collaborative law process; or

(b) to seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or household member if a successor lawyer is not immediately available to represent that person.

(4) If subsection (3)(b) applies, a collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party or household member only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

Section 9. Low-income parties. (1) The disqualification provision contained in [section 8(1)] applies to a collaborative lawyer representing a party with or without a fee.

(2) After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer disqualified under [section 8(1)] is associated may represent a party without a fee in the collaborative matter or a matter related to the collaborative matter if:

(a) the party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation;

(b) the collaborative law participation agreement so provides; and

(c) the collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm that are reasonably calculated to isolate the collaborative lawyer from such participation.

Section 10. Governmental entity as party. (1) The disqualification provision contained in [section 8(1)] applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(2) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter if:

(a) the collaborative law participation agreement so provides; and

(b) the collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm that are reasonably calculated to isolate the collaborative lawyer from such participation.

Section 11. Disclosure of information. Except as provided by law, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall promptly update previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

Section 12. Standards of professional responsibility and mandatory reporting not affected. [Sections 1 through 21] do not affect:

(1) the professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

(2) the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

Section 13. Appropriateness of collaborative law process. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

(1) assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(2) provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and

(3) advise the prospective party that:

(a) after signing an agreement, if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(b) participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(c) the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by [section 8(3), 9(2), or 10(2)].

Section 14. Coercive or violent relationship. (1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:

(a) the party or the prospective party requests beginning or continuing a process; and

(b) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

Section 15. Confidentiality of collaborative law communication. A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law.

Section 16. Privilege against disclosure for collaborative law communication — admissibility — discovery. (1) Subject to [sections 17 and 18], a collaborative law communication is privileged under subsection (2), is not subject to discovery, and is not admissible in evidence.

(2) In a proceeding, the following privileges apply:

(a) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

(b) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

Section 17. Waiver and preclusion of privilege. (1) A privilege under [section 16] may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(2) A person that makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding may not assert a privilege under [section 16], but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

Section 18. Limits of privilege. (1) There is no privilege under [section 16] for a collaborative law communication that is:

(a) available to the public or made during a session of a collaborative law process that is open or is required by law to be open to the public;

(b) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(c) intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(d) in an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under [section 16] for a collaborative law communication do not apply to the extent that a communication is:

(a) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(b) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult unless the department of public health and human services is a party to or otherwise participates in the process.

(3) There is no privilege under [section 16] if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest of protecting confidentiality, and the collaborative law communication is sought or offered in:

(a) a court proceeding involving a felony or misdemeanor; or

(b) a proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(4) If a collaborative law communication is subject to an exception under subsection (2) or (3), only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(5) Disclosure or admission of evidence excepted from the privilege under subsection (2) or (3) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(6) The privileges under [section 16] do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

Section 19. Authority of tribunal in case of noncompliance. (1) If an agreement fails to meet the requirements of [section 3] or a lawyer fails to comply with [section 14 or 15], a tribunal may still find that the parties intended to enter into a collaborative law participation agreement if they:

(a) signed a record indicating an intention to enter into a collaborative law participation agreement; and

(b) reasonably believed they were participating in a collaborative law process.

(2) If a tribunal makes the findings specified in subsection (1) and the interests of justice require, the tribunal may:

(a) enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(b) apply the disqualification provisions of [sections 4, 5, 8, 9, and 10]; and

(c) apply a privilege under [section 16].

Section 20. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 21. Relation to electronic signatures in global commerce act. [Sections 1 through 21] modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but do not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Section 22. Codification instruction. [Sections 1 through 21] are intended to be codified as an integral part of Title 25, and the provisions of Title 25 apply to [sections 1 through 21].

Section 23. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved April 8, 2015

CHAPTER NO. 201

[HB 367]

AN ACT REVISING FEES OF THE COUNTY CLERK WITH REGARD TO FILING OF SUBDIVISION AND TOWNSITE PLATS AND CERTIFICATES OF SURVEY; INCREASING THE FEE FOR FILING OF SUBDIVISION AND TOWNSITE PLATS; CLARIFYING THE FEE FOR FILING EACH PAGE OF A DOCUMENT REQUIRED TO BE FILED WITH A SUBDIVISION, TOWNSITE PLAT, OR CERTIFICATE OF SURVEY; AND AMENDING SECTION 7-4-2631, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, $5;

(b) for filing of subdivision and townsite plats, ~~$10~~ *$25* plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments thereto, $25 plus 50 cents per tract or lot;

(d) for each page of a document required to be ~~recorded~~ *filed* with a subdivision, townsite plat, or certificate of survey *for which a filing fee is not otherwise set by law*, $1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, $2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, $3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, $2;

(l) for each certified copy of a birth certificate, $5, and for each certified copy of a death certificate, $3;

(m) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis."

Approved April 8, 2015

CHAPTER NO. 202

[HB 372]

AN ACT REPEALING THE MONTANA NATIONAL GUARD REENLISTMENT OR EXTENSION ACT OF 1981; REPEALING SECTIONS 10-1-801, 10-1-802, 10-1-803, 10-1-804, 10-1-805, AND 10-1-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

10-1-801. Short title.

10-1-802. Purpose.

10-1-803. Definitions.

10-1-804. Bonus.

10-1-805. Eligibility.

10-1-806. Administration.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 203

[HB 429]

AN ACT ENACTING THE INTERSTATE MEDICAL LICENSURE COMPACT; PROVIDING FOR THE INTERSTATE LICENSURE OF PHYSICIANS; AND DESIGNATING AN APPOINTING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enactment — provisions. The Interstate Medical Licensure Compact is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

SECTION 1

PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the

portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

SECTION 2
DEFINITIONS

In this compact:

(1) "Bylaws" means those bylaws established by the interstate commission pursuant to Section 11 for its governance, or for directing and controlling its actions and conduct.

(2) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11.

(3) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(4) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(5) "Interstate commission" means the interstate commission created pursuant to Section 11.

(6) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(7) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(8) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(9) "Member state" means a state that has enacted the compact.

(10) "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.

(11) "Physician" means any person who:

(a) is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

(b) passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(d) holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(e) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(f) has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(g) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(h) has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

(i) is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(12) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(13) "Rule" means a written statement by the interstate commission promulgated pursuant to Section 12 of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(14) "State" means any state, commonwealth, district, or territory of the United States.

(15) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

SECTION 3

ELIGIBILITY

(1) A physician must meet the eligibility requirements as defined in Section 2(11) to receive an expedited license under the terms and provisions of the compact.

(2) A physician who does not meet the requirements of Section 2(11) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4

DESIGNATION OF STATE OF PRINCIPAL LICENSE

(1) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(a) the state of primary residence for the physician; or

(b) the state where at least 25% of the practice of medicine occurs; or

(c) the location of the physician's employer; or

(d) if no state qualifies under subsection (1)(a), subsection (1)(b), or subsection (1)(c), the state designated as state of residence for the purpose of federal income tax.

(2) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (1).

(3) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5

APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(1) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(2) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(b) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with C.F.R. 731.202.

(c) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(3) Upon verification in subsection (2), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (1), including the payment of any applicable fees.

(4) After receiving verification of eligibility under subsection (2) and any fees under subsection (3), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(5) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(6) An expedited license obtained though the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(7) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6

FEES FOR EXPEDITED LICENSURE

(1) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(2) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7

RENEWAL AND CONTINUED PARTICIPATION

(1) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(a) maintains a full and unrestricted license in a state of principal license;

(b) has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(c) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

(d) has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(2) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(3) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(4) Upon receipt of any renewal fees collected in subsection (3), a member board shall renew the physician's license.

(5) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(6) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

SECTION 8

COORDINATED INFORMATION SYSTEM

(1) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5.

(2) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(3) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(4) Member boards may report any nonpublic complaint or disciplinary or investigatory information not required by subsection (3) to the interstate commission.

(5) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(6) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(7) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9

JOINT INVESTIGATIONS

(1) Licensure and disciplinary records of physicians are deemed investigative.

(2) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(3) A subpoena issued by a member state shall be enforceable in other member states.

(4) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(5) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10

DISCIPLINARY ACTIONS

(1) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(2) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(3) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(a) impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the Medical Practice Act of that state; or

(b) pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(4) If a license granted to a physician by a member board is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member board, for 90 days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action under the

Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the Medical Practice Act of that state.

SECTION 11

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(1) The member states hereby create the "Interstate Medical Licensure Compact Commission".

(2) The purpose of the interstate commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(3) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(4) The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

(a) an allopathic or osteopathic physician appointed to a member board;

(b) an executive director, executive secretary, or similar executive of a member board; or

(c) a member of the public appointed to a member board.

(5) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(6) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(7) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (4).

(8) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

(a) relate solely to the internal personnel practices and procedures of the interstate commission;

(b) discuss matters specifically exempted from disclosure by federal statute;

(c) discuss trade secrets or commercial or financial information that is privileged or confidential;

(d) involve accusing a person of a crime or formally censuring a person;

(e) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) discuss investigative records compiled for law enforcement purposes; or

(g) specifically relate to the participation in a civil action or other legal proceeding.

(9) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(10) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(11) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

(12) The interstate commission may establish other committees for governance and administration of the compact.

SECTION 12

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the duty and power to:

(1) oversee and maintain the administration of the compact;

(2) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

(3) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions;

(4) enforce compliance with compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(5) establish and appoint committees including, but not limited to, an executive committee as required by Section 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;

(6) pay or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the interstate commission;

(7) establish and maintain one or more offices;

(8) borrow, accept, hire, or contract for services of personnel;

(9) purchase and maintain insurance and bonds;

(10) employ an executive director who shall have such powers to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(11) establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(12) accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

(13) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

(14) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(15) establish a budget and make expenditures;

(16) adopt a seal and bylaws governing the management and operation of the interstate commission;

(17) report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission.

(18) coordinate education, training, and public awareness regarding the compact, its implementation, and its operation;

(19) maintain records in accordance with the bylaws;

(20) seek and obtain trademarks, copyrights, and patents; and

(21) perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

SECTION 13
FINANCE POWERS

(1) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(2) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(3) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(4) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

SECTION 14
ORGANIZATION AND OPERATION OF
THE INTERSTATE COMMISSION

(1) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(2) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(3) Officers selected in subsection (2) shall serve without remuneration from the interstate commission.

(4) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

SECTION 15

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(2) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

SECTION 16

OVERSIGHT OF INTERSTATE COMPACT

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities, or actions of the interstate commission.

(3) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact, or promulgated rules.

SECTION 17
ENFORCEMENT OF INTERSTATE COMPACT

(1) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(2) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18
DEFAULT PROCEDURES

(1) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(2) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(b) provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(6) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(7) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(8) The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

SECTION 19

DISPUTE RESOLUTION

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(2) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state is eligible to become a member state of the compact.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(3) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

(4) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21

WITHDRAWAL

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until 1 year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(4) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (3).

(5) The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including

obligations the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(7) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22
DISSOLUTION

(1) The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(2) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23
SEVERABILITY AND CONSTRUCTION

(1) The provisions of the compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of the compact shall be liberally construed to effectuate its purposes.

(3) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24
BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(2) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(3) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(4) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(5) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Section 2. Designation of appointing authority. The governor shall appoint members of the board of medical examiners or the board's executive secretary to serve as commissioners on the interstate medical licensure compact commission provided for in [section 1].

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 3, and the provisions of Title 37, chapter 3, apply to [sections 1 and 2].

Approved April 8, 2015

CHAPTER NO. 204

[HB 507]

AN ACT REVISING LAWS RELATING TO INVESTIGATIONS OF ALLEGED MISTREATMENT, NEGLECT, OR ABUSE OF RESIDENTS AT A RESIDENTIAL FACILITY; CLARIFYING THE TIMEFRAME FOR INITIATING AN INVESTIGATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 53-20-163, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-20-163, MCA, is amended to read:

"53-20-163. Abuse of residents prohibited. (1) Any form of mistreatment, neglect, or abuse of a resident is prohibited.

(2) A residential facility shall publish in each cottage and building and circulate to staff a written policy statement that defines the facility's requirements for reporting and investigating allegations of mistreatment, neglect, or abuse and injuries from an unknown source.

(3) Each allegation of mistreatment, neglect, or abuse and each injury from an unknown source must be reported immediately to the superintendent of the facility and to the department of justice, and the residential facility shall maintain a written record that:

(a) each allegation and each injury from an unknown source has been reported to the department of justice;

(b) each allegation and each injury from an unknown source has been thoroughly investigated and findings stated;

(c) the investigation into the allegation or injury from an unknown source was initiated ~~within 24 hours of~~ *on the next business day following* the report of the incident; and

(d) the results were reported to the director of the department of public health and human services.

(4) The residential facility shall report the details of each reported allegation, including providing the written record created pursuant to this section, to the mental disabilities board of visitors and the state protection and advocacy program for individuals with developmental disabilities, as authorized by 42 U.S.C. 15043(a)(2), within 5 business days of the incident. The residential facility may not redact any information that is provided pursuant to this subsection. The mental disabilities board of visitors and the state protection and advocacy program shall maintain the confidentiality of any report received under this section to the same extent that the reports are confidential under state and federal laws applicable to the residential facility.

(5) Upon receiving a report of an allegation of mistreatment, neglect, or abuse or of an injury from an unknown source, the department of justice shall conduct a thorough investigation of each allegation or each injury from an unknown source and provide a written report of its investigation and findings to the superintendent of the residential facility within 5 business days of the incident.

(6) The residential facility shall provide the department of justice with access to records and other information necessary to conduct investigations under this section. The department of justice shall maintain the confidentiality of any information received in the course of conducting investigations under this

section to the same extent that the information is confidential under state and federal laws applicable to the residential facility.

(7) If a state licensing authority or federal medicaid certification authority issues a statement of deficiency indicating that the residential facility has failed to meet licensing or certification standards due to the thoroughness or timeliness of an investigation conducted under this section, the department of justice shall participate in preparing a plan of correction to restore the residential facility's compliance with licensing or certification standards.

(8) If in the course of conducting an investigation under this section the department of justice develops reasonable cause to believe that a criminal offense has occurred, the department of justice shall refer the matter to the appropriate local law enforcement agency.

(9) The department of justice may adopt rules to implement this section."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 205

[HB 537]

AN ACT REVISING LIMITED LIABILITY COMPANY LAWS TO PERMIT A COMPANY TO BE ORGANIZED FOR CAPTIVE INSURANCE; AMENDING SECTION 35-8-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 35-8-106, MCA, is amended to read:

"35-8-106. Purpose. (1) A limited liability company organized under 35-8-201 through 35-8-211 has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of organization.

(2) Limited liability companies may be organized under 35-8-201 through 35-8-211 for any lawful purpose except for the purpose of banking or insurance. *For purposes of this subsection, the term "insurance" does not include a limited liability company organized for the lawful purpose of captive insurance under Title 33, chapter 28.*"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 206

[SB 8]

AN ACT ALLOWING PRESCRIBING OF CERTAIN PRESCRIPTION DRUGS BY ELECTRONIC MEANS; AMENDING SECTIONS 50-31-307, 50-31-308, AND 50-32-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-31-307, MCA, is amended to read:

"50-31-307. Dispensing of prescription drugs. (1) A drug intended for use by humans that is included in one of the categories in subsection (2) may be

dispensed only *if a practitioner licensed by law to administer or prescribe the drug*:

(a) ~~upon~~ *provides* a written prescription ~~of a practitioner licensed by law to administer the drug~~;

(b) transmits the prescription directly to the pharmacy by electronic means;

~~(b)~~*(c)* ~~upon an~~ *provides an* oral prescription ~~of the practitioner~~ that is reduced promptly to writing and filed by the pharmacist; or

~~(c) by~~*(d) authorizes the* refilling *of* a written*, electronic,* or oral prescription ~~if the refilling is authorized by the practitioner,~~ either in the original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist.

(2) A drug must be dispensed as provided in subsection (1) if the drug:

(a) is a habit-forming drug to which 50-31-306(1)(d) applies;

(b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer *or prescribe* the drug; or

(c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer *or prescribe* the drug.

(3) If the drug is a factory prepackaged contraceptive, other than mifepristone, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the department of public health and human services pursuant to a physician's written protocol specifying the circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning labeling, storage, and recordkeeping of drugs.

(4) The act of dispensing a drug contrary to the provisions of this section is considered an act that results in a drug being misbranded while held for sale."

Section 2. Section 50-31-308, MCA, is amended to read:

"50-31-308. Prescription drugs exempt from certain provisions of chapter. *(1)* Any drug dispensed by filling or refilling a written*, electronic,* or oral prescription of a practitioner licensed by law to administer ~~such drug shall be~~ *or prescribe the drug is* exempt from the requirements of 50-31-306, except subsections (1)(a), (1)(j), (1)(k), (1)(m), (1)(n), and the packaging requirements of subsections (1)(g) and (1)(h), if the drug bears a label containing*:*

(a) the name and address of the dispenser~~,~~*;*

(b) the serial number and date of the prescription or ~~of its filling,~~ *the date it was filled;*

(c) the name of the prescriber~~,~~*;* and

(d) if stated in the prescription, the name of the patient and the directions for use and cautionary statements, if any, contained in ~~such~~ *the* prescription.

(2) This exemption ~~shall~~ *does* not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of 50-31-307."

Section 3. Section 50-32-208, MCA, is amended to read:

"50-32-208. Prescription and medical requirements for scheduled drugs — penalty. (1) *(a)* No dangerous drug in Schedule II may be dispensed without the written *or electronic* prescription of a practitioner.

~~(2)~~*(b)* In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed upon a practitioner's oral prescription reduced promptly to writing and filed by the pharmacy. Prescriptions ~~shall~~ *must* be retained in conformity with the requirements of 50-32-309. ~~No~~ *A* prescription for a Schedule II drug may *not* be refilled.

~~(3)~~*(2)* A dangerous drug included in Schedule III or IV, which is a prescription drug as determined under the federal or Montana food, drug, and cosmetic acts, ~~shall~~ *may* not be dispensed without a written*, electronic,* or oral prescription of a practitioner. The prescription ~~shall~~ *may* not be filled or refilled more than 6 months after the date ~~thereof~~ *of the prescription* or be refilled more than five times unless renewed by the practitioner.

~~(4)~~*(3)* A dangerous drug included in Schedule V ~~shall~~ *may* not be distributed or dispensed other than for a medical purpose.

~~(5)~~*(4)* ~~Any~~ *A* person who violates the provisions of this section is guilty of a misdemeanor and upon conviction may be fined *an amount* not to exceed $1,000 or be imprisoned in *the* county jail for a term not to exceed 1 year, or both fined and imprisoned."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2015

CHAPTER NO. 207

[HB 35]

AN ACT APPROPRIATING MONEY FOR SHORT-TERM VOLUNTARY INPATIENT MENTAL HEALTH TREATMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 53-21-1202, 53-21-1203, AND 53-21-1204, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-21-1202, MCA, is amended to read:

"53-21-1202. Crisis intervention programs — *rulemaking authority*. (1) The department shall, subject to available appropriations *for the purposes of this part*, establish crisis intervention programs. The programs must be designed to provide 24-hour emergency admission and care of persons suffering from a mental disorder and requiring commitment in a temporary, safe environment in the community as an alternative to placement in jail.

(2) The department shall provide information and technical assistance regarding needed services and assist counties in developing county plans for crisis intervention services and for the provision of alternatives to jail placement.

(3) The department may provide crisis intervention programs as:

(a) a rehabilitative service under 53-6-101(4)(j); and

(b) a targeted case management service authorized in 53-6-101(4)(n).

(4) The department shall adopt rules to:

(a) implement the grant program provided for in 53-21-1203;

(b) contract for detention beds pursuant to 53-21-1204; and

(c) pay for short-term inpatient treatment that is provided pursuant to 53-21-1205."

Section 2. Section 53-21-1203, MCA, is amended to read:

"53-21-1203. State matching fund grants for county crisis intervention, jail diversion, precommitment, and short-term inpatient treatment costs. (1) As soon as possible after July 1 of each year, from funds appropriated by the legislature for the purposes of this section, the department shall grant to each eligible county state matching funds for:

(a) jail diversion and crisis intervention services to implement 53-21-1201 and 53-21-1202;

(b) insurance coverage against catastrophic precommitment costs if a county insurance pool is established pursuant to 2-9-211; and

(c) short-term inpatient treatment.

(2) Grant amounts must be based on available funding and the prospects that a county or multicounty plan submitted pursuant to subsection (3) will, if implemented, reduce admissions to the state hospital for emergency and court-ordered detention and evaluation and ultimately result in cost savings to the state. The department shall develop a sliding scale for state grants based upon the historical county use of the state hospital with a high-use county receiving a lower percentage of matching funds. The sliding scale must be based upon the number of admissions by county compared to total admissions and upon the population of each county compared to the state population.

(3) In order to be eligible for the state matching funds, a county shall, in the time and manner prescribed by the department:

(a) apply for the funds and include in the grant application a detailed plan for how the county and other local entities will collaborate and commit local funds for the mental health services listed in subsection (1);

(b) develop and submit to the department a county or multicounty jail diversion and crisis intervention services strategic plan pursuant to 53-21-1201 and 53-21-1202, including a plan for community-based or regional emergency and court-ordered detention and examination services and short-term inpatient treatment;

(c) participate in a statewide or regional county insurance plan for precommitment costs under 53-21-132 if a statewide or regional insurance plan has been established as authorized under 2-9-211;

(d) participate in a statewide or regional jail suicide prevention program if one has been established by the department for the state or for the region in which the county is situated; and

(e) collect and report data and information on county jail diversion, crisis intervention, and short-term inpatient treatment services in the form and manner prescribed by the department to support program evaluation and measure progress on performance goals.

~~(4) The department shall adopt rules by August 1, 2011, to implement the provisions of this section.~~"

Section 3. Section 53-21-1204, MCA, is amended to read:

"53-21-1204. Department to contract for detention beds — ~~rulemaking~~. (1) To the extent funding is appropriated for the purposes of this section, for each service area, as defined in 53-21-1001, the department shall contract with a mental health facility for psychiatric treatment beds that may be used for:

(a) inpatient crisis intervention services needed prior to an involuntary commitment petition being filed; and

(b) emergency detention under 53-21-129 and court-ordered detention under 53-21-124 after an involuntary commitment petition has been filed but before final disposition.

(2) Contracting pursuant to this section must take into consideration county strategic plans developed pursuant to 53-21-1201 and 53-21-1202 and local need for precommitment and short-term inpatient treatment services.

(3) Each contract must provide that for payment of costs for detention, evaluation, and treatment pursuant to subsection (1), the facility shall bill for payment of costs in the order of priority provided for under 53-21-132(2)(a).

(4) Each contract must require the collection and reporting of fiscal and program data in the time and manner prescribed by the department to support program evaluation and measure progress on performance objectives. The department shall establish baseline data on emergency and court-ordered detention admissions to the state hospital from each county and analyze the effect of contracting under this section on state hospital admissions.

~~(5) The department shall adopt rules to implement this section.~~"

Section 4. Appropriation. (1) There is appropriated $1 million from the general fund to the department of public health and human services for the biennium beginning July 1, 2015.

(2) The money must be:

(a) used to pay for short-term inpatient treatment that is provided pursuant to 53-21-1205; and

(b) spent in accordance with rules adopted pursuant to 53-21-1202.

(3) Expenditures from this appropriation are intended to be ongoing and must be included in the budget prepared by the governor for the 2019 biennium.

Section 5. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of $1 million to the department of public health and human services for the biennium beginning July 1, 2015, for short-term inpatient treatment provided pursuant to 53-21-1205, then [section 4] of [this act] is void.

Section 6. Effective date. [This act] is effective July 1, 2015.

Approved April 9, 2015

CHAPTER NO. 208

[HB 47]

AN ACT APPROPRIATING MONEY FOR MENTAL HEALTH CRISIS DIVERSION PILOT PROJECTS FOR YOUTH; REQUIRING A REPORT; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation for youth mental health crisis diversion pilot projects — reporting requirement. (1) There is appropriated $1.2 million from the general fund to the department of public health and human services for the biennium beginning July 1, 2015, for pilot projects involving youth mental health crisis diversion activities.

(2) The department shall grant the money to up to six licensed children's mental health providers for the development of community-based mental health crisis diversion services for youth. Activities funded by the grants must meet the

needs of the community being served, include a community collaboration component, and offer one or more of the following services:

(a) a 24-hour crisis line;

(b) mental health crisis case management with a youth and the youth's family that begins within 24 hours of identification of a crisis situation;

(c) evaluation and assessment of a youth and the youth's family in order to determine the services that will best meet the needs of the youth and family;

(d) short-term residential crisis stabilization services; or

(e) a part-time project coordinator to assist in coalition-building or grant management activities.

(3) (a) Short-term residential crisis stabilization services may be provided in a youth care facility, as defined in 52-2-602, that has a defined program for crisis stabilization.

(b) Grant funds may be used to pay for up to 14 days of short-term residential crisis stabilization services for a youth who is in need of the services and who is uninsured or whose insurance does not adequately cover the cost of the services.

(4) Grant recipients shall report to the children, families, health, and human services interim committee during the 2015-2016 interim on the use of the grant funds, including but not limited to outcome measures identified by the department and grantees.

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 9, 2015

CHAPTER NO. 209

[HB 69]

AN ACT UPDATING THE TRAINING REQUIREMENTS FOR ELECTION ADMINISTRATORS AND ELECTION STAFF; AMENDING SECTIONS 13-1-203 AND 13-4-203, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-203, MCA, is amended to read:

"13-1-203. Secretary of state to advise, assist, and train. (1) The secretary of state shall advise and assist election administrators, including administrators of school elections under Title 20, chapter 20, with regard to:

(a) the application, operation, and interpretation of Title 13, except for chapter 35, 36, or 37;

(b) the implementation and operation of the National Voter Registration Act of 1993, Public Law 103-31; and

(c) the procedures adopted pursuant to 13-17-211.

(2) The secretary of state shall prepare and distribute training materials for election judges to be trained pursuant to 13-4-203. Sufficient copies of the materials to supply all election judges in the county and to provide a small extra supply must be sent to each election administrator.

(3) *(a)* The secretary of state shall hold at least one ~~workshop~~ *training session* every 2 years to instruct election administrators and their staffs ~~in use of the materials~~ *on how to conduct and administer primary and general elections. The training shall also include instruction on the use of the statewide voter registration system*. ~~Workshops~~ *The training* may be held in various locations

around the state. *The training must also be offered online and through teleconferencing.*

(b) Costs of the *biennial training, including the* materials*,* ~~and workshops~~ must be paid by the secretary of state. ~~Attendees of the training must receive a certificate of instruction, which is valid for 2 years.~~

(4) In addition to completing the biennial training under subsection (3), each election administrator shall complete 6 hours of election-related continuing education each year that is approved by the secretary of state. Costs for the continuing education must be paid by the counties.

(5) The secretary of state shall:

(a) certify for election administration purposes each election administrator who attends the biennial training and completes the required continuing education; and

(b) provide a certificate of completion to election staff who attend the biennial election training described in subsection (3).

(6) An election administrator may require that election staff complete the continuing education described in subsection (4) and provide a certificate of completion to staff who complete it."

Section 2. Section 13-4-203, MCA, is amended to read:

"13-4-203. Instruction of judges — training materials. (1) Before each election, all election judges ~~who do not possess a current certificate of instruction obtained pursuant to 13-1-203(3)~~ must be instructed by the election administrator. In precincts where voting systems are used, instructions must cover both how to operate the voting system and how to manually process any paper ballots.

(2) ~~Chief election judges~~ *An election administrator* may ~~be required~~ *require a chief election judge* to attend the training session before each election, as well as a special session that ~~may be held~~ *the election administrator may hold* for chief election judges only, even if ~~they~~ *the chief election judge* ~~possess~~ *possesses* a current certificate of ~~instruction~~ *completion pursuant to 13-1-203(5)(b).*

(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. However, the individual may not be paid for attendance unless the individual is appointed as an election judge.

(4) Each election judge completing a training session under this section must be given a certificate of completion. An individual may not serve as an election judge without a ~~valid~~ *current* certificate ~~obtained under 13-1-203(3) or this section~~. However, this requirement does not apply to individuals filling vacancies in emergencies.

(5) ~~All election judges shall obtain a~~ *A* certificate of ~~instruction or be recertified~~ *completion is current if the certificate is obtained* before the primary election in *an* even-numbered ~~years~~ *year*.

(6) Notice of the place and time of instruction must be given by the election administrator to the presiding officers of the political parties in the county."

Section 3. Effective date. [This act] is effective January 1, 2016.

Approved April 9, 2015

CHAPTER NO. 210

[HB 85]

AN ACT GENERALLY REVISING ADMINISTRATIVE AND FEDERAL TAX QUALIFICATION PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; REVISING PROVISIONS RELATED TO THE CORRECTION OF ERRORS, RECOVERY OF AMOUNTS DUE RESULTING FROM ERRORS, CREDITABLE SERVICE, OPTIONAL RETIREMENT ALLOWANCES, COMPENSATION LIMITATIONS, MAXIMUM CONTRIBUTIONS, DIFFERENTIAL WAGE PAYMENTS, DISABILITY BENEFITS, DEATH BENEFITS, AND GROUP INSURANCE PREMIUM WITHHOLDING; AMENDING SECTIONS 19-20-401, 19-20-402, 19-20-403, 19-20-404, 19-20-405, 19-20-408, 19-20-409, 19-20-410, 19-20-426, 19-20-427, 19-20-702, 19-20-715, 19-20-716, 19-20-718, 19-20-802, 19-20-904, 19-20-1001, AND 19-20-1101, MCA; REPEALING SECTION 19-20-705, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 11], the following definitions apply:

(1) "Amount owed" means the total amount of overpaid benefits or unpaid contributions plus accrued interest as provided in [section 6] and costs and fees awarded as provided in [section 11].

(2) "Benefit recipient" means a benefit recipient as defined in 19-20-101, an alternate payee, or any other person or entity that is entitled to a future payment or that received an overpayment on behalf of the member.

(3) "Error" means any of the following, whether or not intended, that has resulted in or may result in the retirement system paying more or less on behalf of a member than is authorized to be paid or in the retirement system receiving more or less in contributions than is required to be paid to the retirement system pursuant to plan terms:

(a) a clerical mistake;

(b) a failure to fully and correctly perform a required act or provide required information;

(c) an assertion or other representation of fact or circumstance that is not complete and accurate; or

(d) an incorrect understanding, construction, or application of plan terms or other applicable law or policy.

(4) "Overpaid benefits" or "overpayment" means the total amount of all monthly retirement benefits or other amounts paid by the retirement system on behalf of a member due to an error.

(5) "Unpaid contributions" means the total amount of all monthly contributions or other contribution amounts not received by the retirement system due to an error.

Section 2. Correction of errors. The retirement system shall correct errors and, as far as practicable, shall:

(1) in the case of underpaid benefits, adjust future benefit payments so the actuarial equivalent of the benefit to which the member or benefit recipient is correctly entitled will be paid;

(2) in the case of overpaid contributions, refund the excess contributions;

(3) in the case of unpaid contributions, recover the amounts owed for unpaid contributions; and

(4) in the case of overpaid benefits, recover the amounts owed for overpayment.

Section 3. Recovery of unpaid employer contributions. An amount owed for unpaid employer contributions must be paid to the retirement system by the employer and is not subject to reduction for any reason.

Section 4. Recovery of unpaid employee contributions. (1) An amount owed for unpaid employee contributions must be paid to the retirement system by the employer if, at the time the contributions were due, the employer was legally required to pick up and remit the contributions to the retirement system on behalf of the member pursuant to 19-20-602(3)(a) and the unpaid contributions resulted from or were furthered by the employer's error.

(2) An amount owed for unpaid employee contributions not payable by the employer under subsection (1) must be paid to the retirement system by the member or benefit recipient.

Section 5. Recovery of overpayments. (1) Subject to subsection (2), an amount owed to the retirement system for overpaid benefits must be recovered as follows:

(a) from any retirement benefit or other amount payable by the retirement system to a benefit recipient; or

(b) through repayment by a benefit recipient who received an overpayment or by the estate of the benefit recipient.

(2) If an overpayment resulted from or was furthered by an employer's error, the employer is jointly and severally liable for all amounts owed to the retirement system for the overpayment.

Section 6. Interest on overpayments and unpaid contributions. (1) Except as provided in subsection (2), overpaid benefits and unpaid contributions accrue interest at the retirement system's actuarially assumed annual rate of return, compounded monthly. Interest accrues beginning on the date that the first erroneous payment was made or that the contributions were first due and continues to accrue until the amount owed to the retirement system is fully paid.

(2) If overpaid benefits or unpaid contributions resulted solely from an error made by the retirement system, the amount owed may not include interest.

Section 7. Notices required — initial notice — final staff determination. (1) (a) Before taking action to correct an error or recover overpaid benefits or unpaid contributions, the retirement system shall provide a written initial notice to any person or entity from whom the overpayment or unpaid contributions may be recovered.

(b) The initial notice must:

(i) specify the grounds for the retirement system's initial determination that an error has occurred;

(ii) specify, to the extent practicable, the amount owed for overpaid benefits or unpaid contributions;

(iii) identify additional documentation or information, if any, required to be provided to the retirement system for a final staff determination; and

(iv) provide an opportunity for the noticed party or parties to submit additional documentation or information they believe is relevant to the retirement system's determination.

(2) (a) Unless additional time is required for good cause, the retirement system shall issue a final staff determination within 180 days after the date the initial notice was issued.

(b) The final staff determination must specify the process required for a party to appeal the final staff determination to the retirement board.

(3) Notice provided pursuant to this section may be provided to multiple persons or entities as a standardized notice directed to multiple recipients.

Section 8. Statute of limitations. (1) If overpaid benefits or unpaid contributions resulted solely from an error made by the retirement system, the retirement system may recover amounts owed for overpayments or unpaid contributions only for benefits or other amounts actually paid by the retirement system or for contributions that were actually due in the timeframe beginning 24 months prior to the date on which the retirement system issues an initial notice and ending when all amounts owed for overpayments or unpaid contributions are fully paid.

(2) If overpaid benefits or unpaid contributions resulted solely or partially from an error made by an employer, a member, or a benefit recipient, the retirement system may recover all amounts owed for the overpayment or unpaid contributions beginning on the date that the first erroneous payment was made or that contributions were first due. The retirement system may not recover amounts owed under this subsection unless the retirement system issues an initial notice no later than 24 months after the date on which the last payment of a retirement benefit or other amount was made by the retirement system on behalf of the member.

(3) No other statute of limitations or legal or equitable defense to the application of a statute of limitations may be applied to shorten the timeframes in which or for which the retirement system may seek recovery of amounts owed for overpayments or unpaid contributions.

Section 9. Recovery methods. (1) The retirement system may use any or all of the following methods to recover amounts owed from a member or benefit recipient:

(a) accept a lump-sum payment;

(b) accept installment payments;

(c) accept a rollover payment from a member;

(d) actuarially adjust monthly benefit payments;

(e) withhold up to 50% of each monthly benefit payment;

(f) withhold up to 100% of a lump-sum distribution; or

(g) withhold up to 100% of the death benefit payable under 19-20-1001(3) or 19-20-1002(1).

(2) For payment of amounts owed by an employer, the retirement system may use any or all of the following methods:

(a) adjust the amount of subsequent contributions due from the employer;

(b) accept installment payments; or

(c) accept a lump-sum payment.

Section 10. Retirement system's discretion — priority right to recover. (1) Nothing in this part is intended to prohibit retirement system staff from working informally with an employer, a member, or a benefit recipient to mutually resolve an error and recover amounts owed to the retirement system prior to the retirement system taking formal action as provided in this part.

(2) The retirement system has sole discretion to determine the most appropriate method for correcting errors and recovering amounts owed to it.

(3) The retirement system's right to recover amounts owed to it as set forth in this part does not prohibit the retirement system from pursuing any other remedy or penalty available to the retirement system.

(4) The retirement system's right to recover amounts owed to it has priority over the claim of any member, benefit recipient, or other individual or entity claiming an interest in any amount payable by the retirement system to or on behalf of the member.

Section 11. Costs and fees for recovering amounts owed. (1) Unless an overpayment or unpaid contributions resulted solely from an error of the retirement system, in any contested case or other civil proceeding for correction of an error or recovery of an overpayment or unpaid contributions, the retirement system is entitled to the costs enumerated in 25-10-201 and to reasonable attorney fees if:

(a) the retirement system prevails in its claim or defense; and

(b) the court finds, upon judicial review, that the claim or defense of the other party that brought or defended the action was frivolous or was pursued in bad faith.

(2) If there are multiple parties adverse to the retirement system in a contested case, the parties are jointly and severally liable for the costs and fees awarded to the retirement system.

Section 12. Section 19-20-401, MCA, is amended to read:

"19-20-401. Creditable service. (1) The creditable service of a member begins on the date of the member's employment in a capacity prescribed for eligibility in 19-20-302 and accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

(2) ~~The~~ *Subject to 19-20-405, the* creditable service of a member includes the following:

(a) each year of service for which contributions to the retirement system were deducted from the member's compensation under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, this chapter, and their subsequent amendments, except that credit may not be awarded for those years of service for which the contributions have been withdrawn and not replaced;

(b) any ~~out-of-state employment~~ *creditable* service awarded by the retirement board under ~~the provisions of~~ 19-20-402 *for out-of-state employment*;

(c) any *creditable* service awarded *by the retirement board under 19-20-403* for employment while on leave ~~under 19-20-403~~;

(d) any *creditable* service ~~in the military, red cross, or merchant marine~~ awarded by the retirement board under 19-20-404 *for service in the military, the red cross, or the merchant marine*;

(e) any ~~employment~~ *creditable* service awarded by the retirement board under ~~the provisions of~~ 19-20-408 *for employment in private schools*;

(f) any *creditable* service ~~transferred~~ *awarded by the retirement board under 19-20-409 for service transferred* after October 1, 1989, from the public employees' retirement system ~~under 19-20-409~~;

(g) any *creditable* service awarded by the retirement board *under 19-20-410* for extension service employment ~~under 19-20-410~~;

(h) any *creditable* service awarded *by the retirement board under 19-20-411* for absence because of employment-related injury ~~under 19-20-411~~; and

(i) any *creditable* service awarded ~~for service purchased~~ *by the retirement board* under 19-20-426 *for service provided under the university system retirement program*.

(3) The retirement board's determination of creditable service under this section is final and conclusive for the purposes of the retirement system unless, at any time, the board discovers an error or fraud in the establishment of creditable service, in which case the board shall redetermine the creditable service.

(4) For a member completing only part-time service during the qualifying period, the first full year's teaching salary used to calculate the cost to purchase creditable service is the salary that the member would have earned if the member's first year part-time salary had been full-time.

(5) A member may not purchase creditable service under this part after retirement benefit payments to the member have started, even if the member returns to active member status."

Section 13. Section 19-20-402, MCA, is amended to read:

"19-20-402. Creditable service for employment in out-of-state public and federal schools. (1) (a) ~~A~~ *Subject to 19-20-405, a vested* member ~~who has 5 years of active membership service,~~ who has completed 1 full year of active membership in ~~Montana~~ *the retirement system* subsequent to the member's out-of-state service~~,~~ and ~~who~~ contributes to the retirement system as provided in subsection (2) may receive creditable service in the retirement system for out-of-state service that would have been acceptable under the provisions of this chapter if the service had been performed in the state of Montana.

(b) If the member contributed to a public retirement plan, other than social security, while performing the out-of-state service, the member shall roll the member's contributions over into the retirement system or must receive a refund of the member's contributions for the service before purchasing service under this section.

(c) For the purpose of this section, out-of-state service means service performed:

(i) within the United States in a federal or other public school or institution; and

(ii) outside the United States in a federal or other public or private school or institution.

(2) (a) To purchase the service described in subsection (1)(c)(i), a member who became a member before July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined employer and employee contribution for the member's first full year's ~~teaching~~ salary earned in ~~Montana~~ *a position reportable to the retirement system* after the member's out-of-state service, plus interest. The contribution rate must be the rate in effect at the time the member is eligible for the service.

(b) To purchase the service described in subsection (1)(c)(ii), a member who became a member before July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined employer and employee contribution for the member's first full year's teaching salary earned in Montana after the member's out-of-state service or after the salary was reported to the system for the fiscal year beginning July 1, 1989, whichever date is later, plus interest. The contribution rate must be the rate in effect at the time the member is eligible to purchase the service or the rate in effect on July 1, 1989, whichever date is later.

(c) For each year of service to be credited under this section, a member who became a member on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the system.

(3) The interest on contributions required under subsection (2)(a) must be paid:

(a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contributions would have earned had the contributions been in the member's account from the date the member was eligible to purchase the service; or

(b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(4) The contributions and interest required under subsection (2) may be made in a lump-sum payment or in installments as agreed between the member and the retirement board.

(5) The provisions of 19-20-405 apply to creditable service purchased under this section."

Section 14. Section 19-20-403, MCA, is amended to read:

"19-20-403. Creditable service for employment while on leave. (1) (a) ~~A~~ *Subject to 19-20-405, a* member who is eligible under subsection (1)(b) and who contributes to the retirement system as provided in subsection (2) may receive up to 2 years of creditable service for employment while on leave.

(b) To be eligible to purchase service under this section, a member must ~~have at least 5 years of membership service~~ *be vested* in the retirement system, must have been a member prior to the leave, and must have completed 1 year of active membership in ~~Montana~~ *the retirement system* subsequent to the member's ~~return~~ *leave*.

(2) (a) For each year of service to be credited, a member who became a member before July 1, 1989, shall contribute for each year of service to be purchased an amount equal to the combined employer and employee contributions for the member's first full year's ~~teaching~~ salary earned in ~~Montana~~ *a position reportable to the retirement system* after the member's return from leave, plus interest.

(b) For each year of service to be credited under this section, a member who became a member on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent actuarial valuation of the system.

(3) The interest on contributions required under subsection (2)(a) must be paid:

(a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contributions would have earned had the contributions been in the member's account from the date the member was eligible to purchase the service; or

(b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(4) The contributions and interest may be made in a lump-sum payment or in installments as agreed between the member and the retirement board.

~~(5) The provisions of 19-20-405 apply to creditable service purchased under this section.~~"

Section 15. Section 19-20-404, MCA, is amended to read:

"19-20-404. Creditable service for active service in military, red cross, or merchant marine. (1) ~~A~~ *Subject to 19-20-405, a vested* member may receive up to 4 years of creditable service without cost for active service in the armed forces of the United States, which includes the army, navy, marine corps, air force, and coast guard, during the Korean war between June 1, 1950, and January 31, 1955, and the Vietnam conflict between December 22, 1961, and May 7, 1975, dates inclusive~~, if the member has 5 years or more of creditable service in the retirement system~~. To receive credit for this service, a member shall submit to the board a written application and proper certification of the member's military service.

(2) (a) If a *vested* member is ineligible for service credit under subsection (1), the member may apply under the provisions of this subsection (2)(a) for creditable service in the retirement system for active service in the armed forces of the United States, which includes the army, navy, marine corps, air force, and coast guard, or in the American red cross or *the* merchant marine. The ~~person~~ *member* must be awarded creditable service~~, conditional upon the person's completing 5 years of active membership in Montana,~~ for the number of years, not exceeding 2, that the retirement board determines to be creditable service if the ~~person~~ *member* contributes to the retirement system an amount equal to the combined employer and employee contributions for the ~~person's~~ *member's* first full year's ~~teaching~~ salary earned in ~~Montana~~ *a position reportable the retirement system* following the active service in the armed forces of the United States, the American red cross, or the merchant marine for each year of creditable service plus interest paid as follows:

(i) if a written application to purchase service is signed prior to July 1, 2012, at the rate the contribution would have earned had the contribution been in the ~~person's~~ *member's* account upon completion of 5 years of membership service in Montana; or

(ii) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(b) The contribution rate is that rate in effect at the time the ~~person~~ *member* is eligible for the service.

(3) The contribution required under subsection (2) may be made in a lump-sum payment or in installments as agreed between the ~~person~~ *member* and the retirement board."

Section 16. Section 19-20-405, MCA, is amended to read:

"19-20-405. Limit on creditable service that may be awarded. The ~~total creditable~~ *aggregate years of* service ~~for service purchased~~ *that may be credited* under 19-20-402 through 19-20-404, 19-20-408, 19-20-410(1), and 19-20-426 may not exceed 5 years."

Section 17. Section 19-20-408, MCA, is amended to read:

"19-20-408. Creditable service for employment in private schools. (1) (a) ~~A~~ *Subject to 19-20-405, a vested* member ~~who has at least 5 years of membership service,~~ who has completed 1 full year of active membership *in the retirement system* subsequent to the member's private school employment~~,~~ and ~~who~~ contributes to the retirement system as provided in subsection (2) may receive up to 5 years of creditable service in the retirement system for employment within the United States in a private elementary, secondary, or postsecondary educational institution.

(b) Employment to be credited must be of an instructional nature, as an administrative officer, or as a member of the scientific staff. If the employment is for teaching kindergarten through grade 12, the service must have been performed as a certified teacher.

(c) Members may not receive credit for service as a student employed by a private elementary, secondary, or postsecondary educational institution.

(2) (a) For each year of service to be credited, a member who became a member before July 1, 1989, shall contribute to the retirement system an amount equal to the combined employer and employee contribution for the member's first full year's ~~teaching~~ salary earned *in a position reportable to the retirement system* after becoming a member of the retirement system or after returning to the retirement system, whichever is later, plus interest. The contribution rate must be that rate in effect at the time the member is eligible to purchase the service.

(b) For each year of service to be credited under this section, a member who became a member on or after July 1, 1989, shall contribute the actuarial cost of the service based on the most recent valuation of the system.

(3) The interest on contributions required under subsection (2)(a) must be paid:

(a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contributions would have earned had the contributions been in the member's account from the date the member was eligible to purchase the service; or

(b) if a written application to purchase service is signed ~~[~~on or~~]~~ after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(4) The contributions and interest may be made in lump-sum payment or in installments as agreed between the person and the retirement board.

~~(5) The provisions of 19-20-405 apply to creditable service purchased under this section.~~"

Section 18. Section 19-20-409, MCA, is amended to read:

"19-20-409. Transfer of service credits and contributions from public employees' retirement system. (1) An active member may at any time before retirement file a written application with the retirement board to purchase all of the member's previous service credit in the public employees' retirement system. The amount that must be paid to the retirement system to purchase this service under this section is the sum of subsections (2) and (3).

(2) The public employees' retirement system shall transfer to the teachers' retirement system an amount equal to 72% of the amount paid by the member.

(3) The member shall pay either directly or by transferring contributions on account with the public employees' retirement system an amount equal to the member's accumulated contributions at the time that active membership was terminated, plus accrued interest. Interest must be calculated from the date of termination until a transfer is received by the retirement system, based on the interest tables in use by the public employees' retirement system.

(4) A member who purchases service from the public employees' retirement system in the teachers' retirement system must have completed 5 years of membership service in the teachers' retirement system to *be eligible to* receive ~~credit or purchase military service, out-of-state service, employment while on leave, and private school employment~~ *creditable service pursuant to 19-20-402, 19-20-403, 19-20-404, 19-20-410, or 19-20-426.*

(5) The retirement board shall determine the service credits that may be transferred.

(6) If an active member who also has service credit in the public employees' retirement system before becoming a member of the teachers' retirement system dies before purchasing this service in the teachers' retirement system and if the member's service credits from both systems, when combined, entitle the member's beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers' retirement system. Before payment of the death benefit, the public employees' retirement board must transfer to the teachers' retirement system the contributions necessary to purchase this service in the teachers' retirement system as provided in subsections (2) and (3).

(7) (a) If the teachers' retirement board determines that an individual's membership was erroneously classified and reported to the public employees' retirement system, the public employees' retirement board shall transfer to the teachers' retirement system the member's accumulated contributions and service, together with employer contributions plus interest.

(b) For the period of time that the employer contributions are held by the public employees' retirement system, interest paid on employer contributions transferred under this subsection (7) must be calculated at the short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer request.

(c) Any employee and employer contributions due as calculated in 19-20-602, 19-20-605, 19-20-608, and 19-20-609, plus interest, are the liability of the employee and the employing entity where the error occurred.

(8) A member who participated in the public employees' retirement system defined contribution plan provided for in Title 19, chapter 3, part 21, may purchase creditable service for the time spent as a participant in the defined contribution plan if:

(a) the member ~~has 5 years of membership service~~ *is vested in the teachers' retirement system* and has completed at least 1 full year *of active membership* in the teachers' retirement system following the member's public employees' retirement system service;

(b) for each full year or portion of a year to be purchased pursuant to this subsection (8), the member contributes the actuarial cost of the service based on the most recent valuation of the system; and

(c) the member has withdrawn the member's money in the member's public employees' retirement system defined contribution plan account or has rolled over the amount required to purchase service in accordance with this subsection (8).

(9) Creditable service purchased under subsection (8) must be determined according to the laws and rules governing service credit in the public employees' retirement system."

Section 19. Section 19-20-410, MCA, is amended to read:

"19-20-410. Creditable service for extension service employment. (1) (a) ~~At~~ *Subject to 19-20-405, at* any time before retirement, a *vested* member ~~with 5 years or more of creditable service in the retirement system~~ may file a written application with the retirement board to purchase up to 5 years of employment service with the Montana cooperative extension service~~, subject to the limitation contained in 19-20-405~~, if:

(i) the member became a member of the retirement system before July 1, 1989;

(ii) the service involved instructional service at a unit of the Montana university system; and

(iii) the member received a refund of membership contributions under the civil service retirement system or the federal employees' retirement system for the service to be purchased.

(b) For each year of service to be purchased under subsection (1)(a), the member shall contribute to the retirement system an amount equal to the combined employer and employee contribution rate in effect at the time that the member is eligible to purchase the service multiplied by the member's first full year's ~~teaching~~ salary earned ~~after becoming a member of~~ *in a position reportable to* the retirement system *subsequent to the member's extension service employment*, plus interest paid as follows:

(i) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the contribution would have earned had the contribution been in the member's account upon the ~~completion of 5 years of membership service~~ *member becoming vested*; or

(ii) if a written application to purchase service is signed ~~[~~on or~~]~~ after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(2) In addition to service purchased under subsection (1) and subject to 19-20-407, a member who has purchased 5 years or more of creditable service in the retirement system may purchase additional years of cooperative extension service by contributing to the system the full actuarial cost of the service.

(3) Contributions to purchase service under this section may be made in a lump-sum payment or in installments as agreed upon by the member and the retirement board."

Section 20. Section 19-20-426, MCA, is amended to read:

"19-20-426. Creditable service for employment under university system retirement program. (1) (a) ~~A~~ *Subject to 19-20-405, a vested* member ~~who has at least 5 years of membership service,~~ who has completed 1 full year of active membership *in the retirement system* subsequent to the member's participation in the university system retirement program pursuant to 19-21-201~~,~~ and ~~who~~ contributes to the retirement system as provided in subsection (2) may receive up to 5 years of creditable service in the retirement system for service covered under the university system retirement program.

(b) Employment to be credited must be of an instructional nature, as an administrative officer, or as a member of the scientific staff with an individual contract under the authority of the board of regents.

(c) A member may not receive credit for service as a student employed by the institution.

(2) For each year of service to be credited under this section, the member shall contribute the actuarial cost of the service based on the most recent valuation of the system.

(3) The contributions and interest may be made in a lump-sum payment or in installments as agreed between the person and the retirement board.

~~(4) The provisions of 19-20-405 apply to creditable service purchased under this section.~~"

Section 21. Section 19-20-427, MCA, is amended to read:

"19-20-427. Redeposit of contributions previously withdrawn. (1) ~~In~~ *Except as provided in subsection (3), in* addition to the contributions required

under 19-20-602 and 19-20-608, subject to the approval of the retirement board, and to the extent permitted by section 415(k)(3) of the Internal Revenue Code, a member may redeposit in the annuity savings account, by a single payment or by an increased rate of contribution, an amount equal to the accumulated contributions that the member has previously withdrawn, plus interest paid as follows:

(a) if a written application to purchase service is signed prior to July 1, 2012, at the rate the contributions would have earned had the contributions not been withdrawn; or

(b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(2) The redeposit must be made in accordance with 19-20-415.

(3) A member may not redeposit contributions previously withdrawn under this chapter after retirement benefit payments to the member have started, even if the member returns to active member status."

Section 22. Section 19-20-702, MCA, is amended to read:

"19-20-702. Optional allowances — certain period and life allowances. (1) Until the first payment on account of any benefit becomes normally due, any member may elect to receive one of the allowances described in subsection (2) or (3) in lieu of the normal form ~~of~~ retirement allowance, which is provided for in 19-20-902 and part 8 of this chapter.

(2) An optional allowance is the actuarial equivalent of the member's service retirement or disability retirement allowance at the time of the member's retirement effective date and provides an allowance payable to the member throughout the member's lifetime and, upon the member's death, an allowance payable to the joint annuitant that the member nominated by written ~~designation~~ *application*, duly acknowledged and filed with the retirement board at the time of the member's retirement, in accordance with one of the following options:

(a) Option A—the optional allowance will be paid to the member throughout the member's lifetime and, upon the member's death, continue throughout the lifetime of the member's joint annuitant.

(b) Option B—the optional allowance will be paid to the member throughout the member's lifetime, and upon the member's death, one-half of the optional allowance will ~~be continued~~ *continue* throughout the lifetime of the member's joint annuitant.

(c) Option C—the optional allowance will be paid to the member throughout the member's lifetime, and upon the member's death, two-thirds of the optional allowance will ~~be continued~~ *continue* throughout the lifetime of the member's joint annuitant.

(d) Upon election of an optional allowance and designation of a joint annuitant, any prior or subsequent designation of a beneficiary by the retired member is void.

(3) (a) In lieu of any other option available in this section, a member may elect to receive one of the following allowances that must be paid over the certain period of time or for the member's lifetime, whichever is greater:

(i) 10 years if the member is 75 years of age or younger at the time of retirement; or

(ii) 20 years if the member is 65 years of age or younger at the time of retirement.

(b) At the time of retirement, the member shall file with the board a written nomination of beneficiaries to receive payments if the member dies before the end of the certain period elected. Unless limited by a family law order, the nominated beneficiary may be changed by the member at any time by filing with the board a written notice ~~designating~~ *nominating* different beneficiaries.

(4) (a) Upon written application to the retirement board, a retired member whose effective date of retirement is before October 1, 1993, and who is receiving an optional retirement allowance may select a different actuarially equivalent optional allowance and designate a different joint annuitant if:

(i) the original joint annuitant has died. The benefit must convert to the normal form ~~of~~ retirement allowance effective the first of the month following the death of the joint annuitant.

(ii) the member has been divorced from the original joint annuitant and the original joint annuitant has not been granted the right to receive ~~the optional retirement allowance~~ *any ongoing or future distribution of any portion of the retiree's benefits* as part of the divorce settlement. The benefit must convert to the normal form ~~of~~ retirement allowance effective the first of the month following receipt of a written application and verification that the original joint annuitant has not been granted the right to receive the optional retirement allowance as part of the divorce settlement.

(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement or disability allowance to reflect the change.

(5) A retired member receiving an optional retirement allowance pursuant to subsection (2)(a), (2)(b), or (2)(c) that is effective after October 1, 1993, may file a written application to select a different actuarially equivalent optional allowance and designate a different joint annuitant or to revert the optional retirement allowance to the ~~full~~ normal form ~~of~~ retirement allowance available at the time of retirement if:

(a) the original joint annuitant has died. The benefit must revert to the ~~full~~ normal form ~~of~~ retirement allowance effective the first of the month following the death of the original joint annuitant.

(b) the member has been divorced from the original joint annuitant and the original joint annuitant has not been granted the right to receive ~~the optional retirement allowance~~ *any ongoing or future distribution of any portion of the retiree's benefits* as part of the divorce settlement. The benefit must revert to the ~~full~~ normal form ~~of~~ retirement allowance effective the first of the month following receipt of a written application and verification that the original joint annuitant has not been granted the right to receive the optional retirement allowance as part of the divorce settlement.

(6) The normal form ~~of~~ retirement allowance available must be increased by the value of any postretirement adjustments received by the member since the effective date of retirement.

(7) The retired member shall file the written application required by subsection (4) or (5) with the board within 18 months of the death or divorce of the joint annuitant."

Section 23. Section 19-20-715, MCA, is amended to read:

"19-20-715. Earned compensation — limitations. (1) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as adjusted for cost-of-living increases must be disregarded for individuals

who are not eligible employees. The limitation on compensation for eligible employees may not be less than the amount that was allowed to be taken into account under this chapter on July 1, 1993. For purposes of this section, an eligible employee is an individual who was a member in the retirement system prior to July 1, 1996. Any changes in the maximum limits under section 401(a)(17) of the Internal Revenue Code must be applied prospectively.

(2) *(a)* ~~In determining a member's retirement allowance under 19-20-802 or 19-20-804, the~~ *The* earned compensation reported in each year ~~of the 3 years that~~ *that is used to* make up the average final compensation may not be greater than 110% of the previous year's *reported* earned compensation ~~included in the calculation of average final compensation or the earned compensation reported to the retirement system, whichever is less~~, ~~except~~ *not including* increases that result from movement on the employer's adopted salary matrix.

~~(3)~~*(b)* Earned compensation in excess of the amount specified in subsection (2)*(a)* is considered termination pay and must be included in the calculation of average final compensation as provided in 19-20-716(1)(b)."

Section 24. Section 19-20-716, MCA, is amended to read:

"19-20-716. Termination pay. (1) If a member terminates and receives termination pay at the time of retirement, the member shall select, subject to subsections (4) and (5), one of the following options:

(a) Option 1—The member may use the total termination pay in the calculation of the member's average final compensation. The member and the employer shall pay contributions to the retirement system as determined by the board to adequately compensate the system for the additional retirement benefit. The contributions must be made at the time of termination.

(b) Option 2—The member may use a yearly amount of the total termination pay added to each of the ~~3~~ consecutive years' salary used in the calculation of the member's average final compensation *under 19-20-805*. To determine the amount of termination pay used in the calculation of average final compensation, termination pay must be divided by the total number of years of creditable service to determine a yearly amount. The member and the employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602, 19-20-605(1), 19-20-608, and 19-20-609. For the purposes of this subsection (1)(b), the employer shall also pay as a contribution an amount equal to the termination pay multiplied by the rate established in 19-20-607 that would have been payable by the state as a supplemental contribution. The contributions must be made at the time of termination.

(c) Option 3—The member may exclude the termination pay from the average final compensation. A contribution is not required of either the member or the employer.

(2) If a member signs a binding, irrevocable written election for either an option 1 or option 2 benefit at least 90 days prior to the member's termination date, the employee contributions required by this section must be picked up by the employer. The binding, irrevocable written election required by this subsection (2) must be signed by both the member and the employer and must contain statements with regard to the contributions required to be made by the member under subsections (1)(a) and (1)(b) that:

(a) the contributions being picked up, although designated as member contributions, are being paid by the employer directly to the system in lieu of contributions by the member and that the picked up contributions are paid from the same source as compensation is paid;

(b) the member may not choose to directly receive the amounts deducted from the member's termination pay instead of having them paid by the employer to the system;

(c) the member may not prepay any portion of the contributions; and

(d) the effective date of the pickup is the date that the irrevocable written election is signed by both the member and employer. The effective date must be at least 90 days prior to the member's date of termination. The pickup does not apply to a contribution made before the effective date of the pickup.

(3) Pursuant to subsection (2), contributions required under subsection (1)(a) or (1)(b) must be:

(a) deducted from the portion of termination pay that:

(i) constitutes wages for the purposes of section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) can be included in the member's gross income for federal tax purposes; and

(b) picked up by the employer, except as provided in subsections (4) and (5).

(4) A member's contributions greater than the total amount of the member's termination pay may not be picked up by the employer and are subject to the limitations of section 415 of the Internal Revenue Code.

(5) If a member and the member's employer fail to sign the written election within the time period required in subsection (1), the member may contribute for the purposes specified in subsections (1)(a) and (1)(b) on all or any part of the termination pay received. A contribution made pursuant to this subsection may not be picked up by the employer and is subject to the limitations of section 415 of the Internal Revenue Code."

Section 25. Section 19-20-718, MCA, is amended to read:

"19-20-718. Maximum contribution limitation. (1) Notwithstanding any other provision of law to the contrary, the board may modify a request by a participant to make a contribution to the system required under part 4 or 6 of this chapter that would exceed the limits in section 415(c) or 415(n) of the Internal Revenue Code by using the following methods:

(a) The board may establish a periodic payment plan in order to avoid a contribution in excess of the limits of section 415(c) or 415(n) of the Internal Revenue Code.

(b) If the board's option in subsection (1)(a) will not avoid a contribution in excess of the limits in section 415(c) of the Internal Revenue Code, the board may direct the excess contribution to the qualified governmental excess benefit arrangement pursuant to section 415(m) of the Internal Revenue Code if a qualified governmental excess benefit arrangement has been established pursuant to 19-20-212.

(2) If the board's options in subsections (1)(a) and (1)(b) will not avoid a contribution in excess of the limits of section 415(c) of the Internal Revenue Code, the board shall reduce or refuse the contribution.

(3) The board shall use the provisions of section 415(n) of the Internal Revenue Code, as the provisions apply to a government plan, to facilitate member's service purchases. An eligible participant in a retirement plan, as defined by section 1526 of the Taxpayer Relief Act of 1997, 26 U.S.C. 415, may purchase service credit without regard to the limitations of section 415(c)(1) of the Internal Revenue Code under the Montana statutes in effect on August 5, 1997.

(4) (a) For the purpose of calculating the maximum contribution under section 415 of the Internal Revenue Code, the definitions of "compensation", "wages", and "salary" include the amount of any elective deferral, as defined in section 402(g) of the Internal Revenue Code, or any contribution that is contributed or deferred by the employer at the election of the member and that is not includable in the gross income of the member by reason of section 125, 132(f), 403(b), or 457 of the Internal Revenue Code. Any changes in the maximum limits under section 415 of the Internal Revenue Code must be applied prospectively.

(b) For limitation years beginning after December 31, 2000, compensation must also include any elective amounts that are not able to be included in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue Code.

(c) For limitation years beginning on and after September 1, 2009, compensation for the limitation year must also include compensation paid by the later of 2.5 months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours or compensation for services outside the member's regular working hours, such as overtime or shift differential, commissions, bonuses, or other similar payments, and absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued sick, vacation, or other leave that the member would have been able to use if employment had continued.

(d) For limitation years beginning on or after September 1, 2009, a member's compensation for purposes of this section may not exceed the annual limit under section 401(a)(17) of the Internal Revenue Code.

(e) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the Internal Revenue Code, 26 U.S.C. 414(u)(12), a member receiving from an employer differential wage payments as defined under section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2), must be treated as employed by that employer. The differential wage payments must be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c). This provision must be applied to all similarly situated employees in an equivalent manner."

Section 26. Section 19-20-802, MCA, is amended to read:

"19-20-802. Early retirement. (1) (a) A *vested* tier one member who is not eligible for service retirement but ~~who has been credited with at least 5 years of creditable service and~~ has attained the age of 50 is eligible for an early retirement allowance.

(b) A *vested* tier two member who is not eligible for service retirement but ~~who has at least 5 years of creditable service and~~ has attained the age of 55 is eligible for an early retirement allowance.

(2) A member retiring early under subsection (1) must have terminated employment in all positions reportable to the retirement system and must file a written application with the retirement board.

(3) The early retirement allowance must be determined as prescribed in 19-20-804, with the exception that the allowance will be reduced using

actuarially equivalent factors based on the most recent actuarial valuation of the system."

Section 27. Section 19-20-904, MCA, is amended to read:

"19-20-904. Adjustment of allowance. (1) (a) Except as provided by subsection (1)(b), if a retiree receiving a disability retirement allowance is engaged in or is able to engage in a gainful occupation paying more than the difference between the retiree's retirement allowance and the retiree's average final compensation or the difference between the median ~~salary~~ *average final compensation* of those members retired during the preceding fiscal year and the retiree's retirement allowance, whichever is greater, the retirement allowance must be reduced to an amount that, together with the amount earnable by the retiree, is equal to the retiree's average final compensation or the median ~~salary~~ *average final compensation* of those members retired during the preceding fiscal year, whichever is greater.

(b) If a disabled retiree is reemployed with the same employer within 30 days from the member's effective date of retirement or if the retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement benefit must be terminated.

(2) If the disabled retiree's earning capacity is changed later, the retirement allowance may be further modified, but the new allowance may not exceed the retirement allowance originally granted or an amount that, when added to the amount earnable by the retiree, equals the retiree's average final compensation.

(3) The board may, in its discretion, require a recipient of a disability retirement allowance to annually submit an earning statement and any documentation necessary to support the earnings of the recipient."

Section 28. Section 19-20-1001, MCA, is amended to read:

"19-20-1001. Allowances for death of member prior to retirement. (1) If a member dies before retirement, the member's accumulated contributions must be paid to the member's estate or to the beneficiary that the member nominated by a written application in a manner prescribed by the board and filed with the retirement board prior to the member's death.

(2) (a) ~~Except as provided in subsection (2)(d), in~~ *In* lieu of benefits provided for in subsection (1), if the deceased member qualified by reason of service for a retirement benefit, the ~~nominated~~ *designated* beneficiary may elect to receive a retirement allowance. The retirement allowance *for the beneficiary of the member* must be determined as prescribed in 19-20-804, without reference to 19-20-715(2)*(a)*, in the same manner as if the member elected option A provided for in 19-20-702(2)(a).

(b) The effective date of the retirement allowance provided for in subsection (2)(a) is the earlier of:

(i) the first of the month following the date of death; or

(ii) the effective date of the member's retirement, as acknowledged in writing by the retirement system before the member's death.

(c) In the event that a beneficiary receiving payments under subsection (2)(a) dies and payments made to the beneficiary do not equal the amount of the member's accumulated contributions at the time of the member's death, the difference between the total retirement allowance payments made and the

amount of the accumulated contributions at the time of the member's death must be paid to the beneficiary's estate.

~~(d) The nominated beneficiary of a deceased tier two member may elect to receive a retirement allowance as permitted under subsection (2)(a) only if the tier two member died within 1 year of the last day on which the tier two member was employed in a position reportable to the retirement system. If the tier two member was an inactive member for more than 1 year before the member's date of death, the tier two member's accumulated contributions must be paid pursuant to subsection (1).~~

(3) If the deceased member had 5 or more years of creditable service and was an active member in the ~~state of Montana~~ *retirement system* within 1 year before the member's death, a lump-sum death benefit of $500 is payable to the member's designated beneficiary.

(4) If a deceased member had 5 or more years of creditable service and was an active member in the ~~state of Montana~~ *retirement system* within 1 year prior to the member's death, the sum of $200 a month must be paid to each minor child of the deceased member until the child reaches 18 years of age.

(5) If the member nominated more than one beneficiary to receive payment of a benefit provided by this section upon the member's death, then:

(a) each beneficiary is entitled to share in that benefit; and

(b) if a beneficiary predeceases the member, the benefit must be divided among the surviving beneficiaries.

(6) If a family law order has been issued, an alternate payee's rights under the family law order must be given priority over the rights of a beneficiary."

Section 29. Section 19-20-1101, MCA, is amended to read:

"19-20-1101. Withholding of group insurance premium from retirement allowance. (1) A retired member who is a participant in an approved employer-sponsored group insurance plan may elect to have the monthly premium for the group insurance withheld from the member's retirement allowance by the retirement system. Premiums withheld ~~may~~ *must* be paid directly to the ~~insurance carrier or~~ *sponsoring* employer ~~of record at the time of retirement~~.

(2) Upon the death of a retired member, the joint annuitant or beneficiary, if eligible, may elect to continue to have the monthly insurance premium withheld from a monthly retirement benefit ~~and paid directly to the employer or the employer's insurance carrier~~.

(3) Each month, using the retirement system's online employer reporting system, the employer shall commence withholding, cease withholding, or process any necessary adjustments to the premium amount on behalf of the benefit recipient, including verification that all authorized insurance deductions are correct.

(4) The employer shall notify the benefit recipient of any changes related to the premiums, including any changes to the premium amount, prior to the effective date of the change."

Section 30. Repealer. The following section of the Montana Code Annotated is repealed:

19-20-705. Correction of errors.

Section 31. Codification instruction. [Sections 1 through 11] are intended to be codified as an integral part of Title 19, chapter 20, and the provisions of Title 19, chapter 20, apply to [sections 1 through 11].

Section 32. Effective date. [This act] is effective July 1, 2015.

Section 33. Retroactive applicability. [Section 25] applies retroactively, within the meaning of 1-2-109, to differential wage payments made on or after January 1, 2009.

Approved April 9, 2015

CHAPTER NO. 211

[HB 102]

AN ACT REVISING REGULATION OF REAL ESTATE TRANSACTIONS; PROVIDING AND CLARIFYING DEFINITIONS; CLARIFYING EXEMPTIONS FROM LICENSING PROVISIONS; REQUIRING A LICENSE TO CONDUCT REAL ESTATE BUSINESS IF THE REAL ESTATE IS LOCATED WITHIN THE STATE; REQUIRING A REAL ESTATE LICENSEE ACTING AS AN AGENT TO COMPLY WITH DISCLOSURE REQUIREMENTS; AMENDING SECTIONS 37-51-102, 37-51-103, 37-51-301, 37-51-306, 37-51-313, AND 37-51-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-51-102, MCA, is amended to read:

"37-51-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Account" means the real estate recovery account established in 37-51-501.

(2) (a) "Adverse material fact" means a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property and may be a fact that:

(i) materially affects the value, affects structural integrity, or presents a documented health risk to occupants of the property; or

(ii) materially affects the buyer's ability or intent to perform the buyer's obligations under a proposed or existing contract.

(b) The term does not include the fact that an occupant of the property has or has had a communicable disease or that the property was the site of a suicide or felony.

(3) "Asset management" means management, oversight, or direct actions taken to maintain or transfer any real property before a foreclosure sale or in preparation for liquidation of real property owned by the client pursuant to a foreclosure sale. This includes any action taken to preserve, restore, or improve the value and to lessen the risk of damage to the property in preparation for liquidation of real property pursuant to a foreclosure sale.

~~(3)~~*(4)* "Board" means the board of realty regulation provided for in 2-15-1757.

~~(4)~~*(5)* "Broker" includes an individual who:

(a) for another or for valuable consideration or who with the intent or expectation of receiving valuable consideration negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements on real estate or collects rents or attempts to collect rents;

(b) is employed by or on behalf of the owner or lessor of real estate to conduct the sale, leasing, subleasing, or other disposition of real estate for consideration;

(c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which the individual undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers;

(d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers ~~and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease~~;

(e) aids or attempts or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;

(f) receives a fee, commission, or other compensation for referring to a licensed broker or salesperson the name of a prospective buyer or seller of real property; ~~or~~

(g) performs asset management services for real property in conjunction with the marketing or transfer of the property; or

~~(g)~~*(h)* advertises or represents to the public that the individual is engaged in any of the activities referred to in ~~subsections (4)(a) through (4)(f)~~ *this subsection (5)*.

~~(5)~~*(6)* "Buyer" means a person who is interested in acquiring an ownership interest in real property or who has entered into an agreement to acquire an interest in real property. The term includes tenants or potential tenants with respect to leases or rental agreements of real property.

~~(6)~~*(7)* "Buyer agent" means a broker or salesperson who, pursuant to a written buyer broker agreement, is acting as the agent of the buyer in a real estate transaction and includes a buyer subagent and an in-house buyer agent designate.

~~(7)~~*(8)* "Buyer broker agreement" means a written agreement in which a prospective buyer employs a broker to locate real estate of the type and with terms and conditions as designated in the written agreement.

~~(8)~~*(9)* "Buyer subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a buyer.

~~(9)~~*(10)* "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(10)~~*(11)* "Dual agent" means a broker or salesperson who, pursuant to a written listing agreement or buyer broker agreement or as a buyer or seller subagent, acts as the agent of both the buyer and seller with written authorization, as provided in 37-51-314. An in-house buyer or seller agent designate may not be considered a dual agent.

~~(11)~~*(12)* "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

~~(12)~~*(13)* "In-house buyer agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a buyer for a designated transaction and who may not be considered to be acting for other than the buyer with respect to the designated transaction.

~~(13)~~*(14)* "In-house seller agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a seller for a designated transaction and who may not be considered to be acting for other than the seller with respect to the designated transaction.

~~(14)~~*(15)* "Listing agreement" means a written agreement between a seller and broker for the sale of real estate, with the terms and conditions set out in the agreement.

~~(15)~~*(16)* "Negotiations" ~~means~~ *includes*:

(a) efforts to act as an intermediary between parties to a real estate transaction;

(b) facilitating and participating in contract discussions;

(c) completing forms for offers, counteroffers, addendums, and other writings; and

(d) presenting offers and counteroffers.

~~(16)~~*(17)* "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

~~(17)~~*(18)* "Property manager" ~~includes a person~~ *means an individual* who for a salary, commission, or compensation of any kind *or with the intent or expectation of receiving valuable consideration* engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate *located in this state and* belonging to others without transfer of the title to the property~~, pursuant to 37-51-601 and 37-51-602~~. *The term includes but is not limited to an individual who:*

(a) is employed by or on behalf of the owner, lessor, or potential lessee of real estate to promote or conduct the leasing, subleasing, or other disposition or acquisition of real estate without transfer of the title to the property;

(b) negotiates or attempts to negotiate the lease of any real estate located in this state or of the improvements on any real estate located in this state;

(c) engages in the business of promoting the lease, rental, exchange, or other disposition of real estate located in this state without transfer of the title to the property through the listing of the real estate in a publication issued primarily for this purpose;

(d) assists in creating or completing real estate lease contracts;

(e) procures tenants for owners of real estate located in this state;

(f) aids or offers to aid, for a fee, any person in locating or obtaining any real estate for lease in this state;

(g) makes the advertising of real property for lease available by public display to potential tenants;

(h) shows rental or lease properties to potential tenants;

(i) in conjunction with property management responsibilities, acts as a liaison between the owners of real estate and a tenant or potential tenant;

(j) in conjunction with property management responsibilities, generally oversees the inspection, maintenance, and upkeep of leased real estate belonging to others;

(k) in conjunction with property management responsibilities, collects rents or attempts to collect rents for any real estate located in this state;

(l) pays a fee, commission, or other compensation to a licensed broker, salesperson, or property manager for referral of the name of a prospective lessor or lessee of real property;

(m) receives a fee, commission, or other compensation from a licensed broker, salesperson, or property manager for referring the name of a prospective buyer, seller, lessor, or lessee of real estate; or

(n) advertises or represents to the public that the individual is engaged in any of the activities referred to in this subsection (18).

~~(18)~~*(19)* "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

~~(19)~~*(20)* "Real estate transaction" means the sale, exchange, or lease or grant of an option for the sale, exchange, or lease of an interest in real estate and includes all communication, interposition, advisement, negotiation, and contract development and closing.

~~(20)~~*(21)* "Salesperson" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

~~(21)~~*(22)* "Seller" means a person who has entered into a listing agreement to sell real estate and includes landlords who have an interest in or are a party to a lease or rental agreement.

~~(22)~~*(23)* "Seller agent" means a broker or salesperson who, pursuant to a written listing agreement, acts as the agent of a seller and includes a seller subagent and an in-house seller agent designate.

~~(23)~~*(24)* "Seller subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a seller.

~~(24)~~*(25)* (a) "Statutory broker" means a broker or salesperson who assists one or more parties to a real estate transaction without acting as an agent or representative of any party to the real estate transaction.

(b) A broker or salesperson is presumed to be acting as a statutory broker unless the broker or salesperson has entered into a listing agreement with a seller or a buyer broker agreement with a buyer or has disclosed, as required in this chapter, a relationship other than that of a statutory broker.

~~(25)~~*(26)* "Supervising broker" means a licensed broker with whom a licensed salesperson is associated, directly, indirectly, regularly, or occasionally, to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

~~(26)~~*(27)* "Supervising broker endorsement" means an endorsement to a broker's license that is required of any licensed broker who supervises licensed salespersons performing real estate activity."

Section 2. Section 37-51-103, MCA, is amended to read:

"37-51-103. Exemptions. (1) An act performed for compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating a real estate transaction for others, except as specified in this section, must identify the person performing any of the acts as a real estate

broker*,* ~~or~~ a real estate salesperson*, or a property manager*. The *licensing* provisions of this chapter do not:

(a) apply to any person who, as owner or lessor, performs any acts listed in subsection (1) with reference to property owned or leased by the person or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by the owner or lessor;

(b) apply to any person acting as attorney-in-fact under a special or general power of attorney from the owner of any real estate authorizing the purchase, sale, exchange, renting, or leasing of any real estate, unless the person acting as attorney-in-fact does so regularly or consistently for a person or persons, for or with the expectation of receiving a fee, commission, or other valuable consideration in conjunction with a business or for the purpose of avoiding license requirements;

(c) include in any way the services rendered by any attorney at law in the performance of the attorney's duties;

(d) apply to any person appointed by a court for the purpose of evaluating or appraising an estate in a probate matter;

(e) include a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting a public sale held by the officer;

(f) apply to public officials in the conduct of their official duties;

(g) apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any hydrocarbons, hard minerals, or mining rights, whether upon a royalty basis or otherwise;

(h) apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by Montana or an agency or subdivision of Montana or by the government of the United States or an agency of the United States; or

(i) apply to a person performing any act with respect to the following types of land transactions:

(i) right-of-way transfers for roads, utilities, and other public purposes, not including conservation easements or easements for recreational purposes;

(ii) condemnations; or

(iii) governmental or tribal permits.

(2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation or to a radio or television station engaged in the normal course of business."

Section 3. Section 37-51-301, MCA, is amended to read:

"37-51-301. License required — limited to persons. (1) It is unlawful for a person to engage in or conduct, directly or indirectly, or to advertise or represent to the public as engaging in or conducting the business or acting in the capacity of a real estate broker or a real estate salesperson within this state without a license as a broker or salesperson or otherwise complying with this chapter.

(2) It is unlawful for a person to supervise licensed salespersons or to act in the capacity of a supervising broker unless the person has a valid and active Montana broker's license and a supervising broker endorsement.

(3) Corporations, partnerships, and associations may not be licensed under this chapter. A corporation or a partnership may act as a licensee if every corporate officer and every partner performing the functions of a licensee is licensed under this chapter. All officers of a corporation or all members of a partnership acting as a licensee are in violation of this chapter unless there is full compliance with this subsection.

(4) (a) For purposes of this section and whether or not the person is physically located in Montana, "within this state" or similar terminology includes:

(i) marketing or dealing with any interest in real estate or a business opportunity involving an interest in real estate that is situated in the state of Montana; or

(ii) conducting or attempting to conduct or solicit real estate business with residents of the state of Montana.

(b) Unless exempted from this chapter, any single act described within the definitions of "broker" or "salesperson" is sufficient to constitute engaging in the business of a real estate broker or salesperson."

Section 4. Section 37-51-306, MCA, is amended to read:

"37-51-306. Transactions with nonresidents and with nonlicensed brokers, ~~or~~ salespersons, *or property managers* — consent to legal process. (1) A licensed broker may not employ or compensate, directly or indirectly, a person for performing the acts regulated by this chapter who is not a licensed broker, ~~or~~ *a* licensed salesperson, *or a licensed property manager*. However, a licensed broker may pay a commission to a licensed broker of another state or jurisdiction if the nonresident broker has not conducted and does not conduct in this state a service for which a fee, compensation, or commission is paid.

(2) A nonresident licensee shall file an irrevocable written consent that legal actions arising out of a commenced or completed transaction may be commenced against the nonresident licensee in a county of this state that may be appropriate and designated by Title 25, chapter 2, part 1. The consent must provide that service of summons in this action may be served on the department for and on behalf of the nonresident licensee, and this service is sufficient to give the court jurisdiction over the licensee conducting a transaction in a county. The consent must be acknowledged and, if made by a corporation, must be authenticated by its seal."

Section 5. Section 37-51-313, MCA, is amended to read:

"37-51-313. Duties, duration, and termination of relationship between broker or salesperson and buyer or seller. (1) The provisions of this chapter and the duties described in this section govern the relationships between brokers or salespersons and buyers or sellers and are intended to replace the duties of agents as provided elsewhere in state law and replace the common law as applied to these relationships. The terms "buyer agent", "dual agent" and "seller agent", as used in this chapter, are defined in 37-51-102 and are not related to the term "agent" as used elsewhere in state law. The duties of a broker or salesperson vary depending upon the relationship with a party to a real estate transaction and are as provided in this section.

(2) A seller agent is obligated to the seller to:

(a) act solely in the best interests of the seller, except that a seller agent, after written disclosure to the seller and with the seller's written consent, may represent multiple sellers of property or list properties for sale that may compete with the seller's property without breaching any obligation to the seller;

(b) obey promptly and efficiently all lawful instructions of the seller;

(c) disclose all relevant and material information that concerns the real estate transaction and that is known to the seller agent and not known or discoverable by the seller, unless the information is subject to confidentiality arising from a prior or existing agency relationship on the part of the seller agent with a buyer or another seller;

(d) safeguard the seller's confidences;

(e) exercise reasonable care, skill, and diligence in pursuing the seller's objectives and in complying with the terms established in the listing agreement;

(f) fully account to the seller for any funds or property of the seller that comes into the seller agent's possession; and

(g) comply with all applicable federal and state laws, rules, and regulations.

(3) A seller agent is obligated to the buyer to:

(a) disclose to a buyer or the buyer agent any adverse material facts that concern the property and that are known to the seller agent, except that the seller agent is not required to inspect the property or verify any statements made by the seller;

(b) disclose to a buyer or the buyer agent when the seller agent has no personal knowledge of the veracity of information regarding adverse material facts that concern the property;

(c) act in good faith with a buyer and a buyer agent; and

(d) comply with all applicable federal and state laws, rules, and regulations.

(4) A buyer agent is obligated to the buyer to:

(a) act solely in the best interests of the buyer, except that a buyer agent, after written disclosure to the buyer and with the buyer's written consent, may represent multiple buyers interested in buying the same property or properties similar to the property in which the buyer is interested or show properties in which the buyer is interested to other prospective buyers without breaching any obligation to the buyer;

(b) obey promptly and efficiently all lawful instructions of the buyer;

(c) disclose all relevant and material information that concerns the real estate transaction and that is known to the buyer agent and not known or discoverable by the buyer, unless the information is subject to confidentiality arising from a prior or existing agency relationship on the part of the buyer agent with another buyer or a seller;

(d) safeguard the buyer's confidences;

(e) exercise reasonable care, skill, and diligence in pursuing the buyer's objectives and in complying with the terms established in the buyer broker agreement;

(f) fully account to the buyer for any funds or property of the buyer that comes into the buyer agent's possession; and

(g) comply with all applicable federal and state laws, rules, and regulations.

(5) A buyer agent is obligated to the seller to:

(a) disclose any adverse material facts that are known to the buyer agent and that concern the ability of the buyer to perform on any purchase offer;

(b) disclose to the seller or the seller agent when the buyer agent has no personal knowledge of the veracity of information regarding adverse material facts that concern the property;

(c) act in good faith with a seller and a seller agent; and

(d) comply with all applicable federal and state laws, rules, and regulations.

(6) A statutory broker is not the agent of the buyer or seller but nevertheless is obligated to them to:

(a) disclose to:

(i) a buyer or a buyer agent any adverse material facts that concern the property and that are known to the statutory broker, except that the statutory broker is not required to inspect the property or verify any statements made by the seller;

(ii) a seller or a seller agent any adverse material facts that are known to the statutory broker and that concern the ability of the buyer to perform on any purchase offer;

(b) exercise reasonable care, skill, and diligence in putting together a real estate transaction; and

(c) comply with all applicable federal and state laws, rules, and regulations.

(7) A dual agent is obligated to a seller in the same manner as a seller agent and is obligated to a buyer in the same manner as a buyer agent under this section except that a dual agent has a duty to disclose to a buyer or seller any adverse material facts that are known to the dual agent, regardless of any confidentiality considerations.

(8) A dual agent may not disclose the following information without the written consent of the person to whom the information is confidential:

(a) the fact that the buyer is willing to pay more than the offered purchase price;

(b) the fact that the seller is willing to accept less than the purchase price that the seller is asking for the property;

(c) factors motivating either party to buy or sell; and

(d) any information that a party indicates in writing to the dual agent is to be kept confidential.

(9) While managing properties for owners, a licensed real estate broker or licensed real estate salesperson is only required to meet the requirements of part 6 of this chapter, other than those requirements for the licensing of property managers, and the rules adopted by the board to govern licensed property managers.

(10) A licensed broker or salesperson must obtain an appropriate written buyer broker agreement or written listing agreement prior to performing the acts of a buyer agent or a seller agent. A licensed broker or salesperson who is acting as a buyer agent or a seller agent without a written buyer broker agreement or written listing agreement is nevertheless obligated to comply with the requirements of this chapter.

~~(10)~~*(11)* (a) The agency relationship of a buyer agent, seller agent, or dual agent continues until the earliest of the following dates:

(i) completion of performance by the agent;

(ii) the expiration date agreed to in the listing agreement or buyer broker agreement; or

(iii) the occurrence of any authorized termination of the listing agreement or buyer broker agreement.

(b) A statutory broker's relationship continues until the completion, termination, or abandonment of the real estate transaction giving rise to the relationship.

~~(11)~~*(12)* Upon termination of an agency relationship, a broker or salesperson does not have any further duties to the principal, except as follows:

(a) to account for all money and property of the principal;

(b) to keep confidential all information received during the course of the agency relationship that was made confidential at the principal's direction, except for:

(i) subsequent conduct by the principal that authorizes disclosure;

(ii) disclosure of any adverse material facts that concern the principal's property or the ability of the principal to perform on any purchase offer;

(iii) disclosure required by law or to prevent the commission of a crime;

(iv) the information being disclosed by someone other than the broker or salesperson; and

(v) the disclosure of the information being reasonably necessary to defend the conduct of the broker or salesperson, including employees, independent contractors, and subagents.

~~(12)~~*(13)* Consistent with the licensee's duties as a buyer agent, a seller agent, a dual agent, or a statutory broker, a licensee shall endeavor to ascertain all pertinent facts concerning each property in any transaction in which the licensee acts so that the licensee may fulfill the obligation to avoid error, exaggeration, misrepresentation, or concealment of pertinent facts."

Section 6. Section 37-51-602, MCA, is amended to read:

"37-51-602. ~~Definition of property management — exemptions from application~~ *Exemptions from requirement of property manager license.* (1) ~~An act performed for compensation of any kind in the leasing, renting, subleasing, or other transfer of possession of real estate owned by another without transfer of the title to the real estate, except as specified in this section, constitutes the practice of property management.~~ The *property manager licensing* provisions of this chapter do not apply to:

(a) a relative of the owner of the real estate, defined as follows:

(i) a son or daughter of the property owner or a descendant of either;

(ii) a stepson or stepdaughter of the property owner;

(iii) a brother, sister, stepbrother, or stepsister of the property owner;

(iv) the father or mother of the property owner or the ancestor of either;

(v) a stepfather or stepmother of the property owner;

(vi) a son or daughter of a brother or sister of the property owner;

(vii) a brother or sister of the father or mother of the property owner;

(viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the property owner; or

(ix) the spouse of the property owner;

(b) a person who leases no more than four residential real estate units;

(c) a person acting as attorney-in-fact under a power of attorney from the owner of real estate who authorizes the final consummation of any contract for the renting or leasing of the real estate. This exemption is meant to exclude a single or irregular transaction and may not be routinely used to escape the necessity of obtaining a license.

(d) an attorney at law in the performance of duties as an attorney;

(e) a receiver, trustee in bankruptcy, personal representative, person acting in regard to real estate pursuant to a court order, or a trustee under a trust agreement, deed of trust, or will;

(f) an officer of the state or any of its political subdivisions in the conduct of official duties;

(g) a person acting as a manager of a housing complex for low-income individuals subsidized either directly or indirectly by the state, any agency or political subdivision of the state, or the government or an agency of the United States;

(h) a person who receives compensation from the owner of the real estate in the form of reduced rent or salary, unless that person holds signatory authority on the account in which revenue from the real estate is deposited or disbursed;

(i) a person employed by the owner of the real estate if that person's property management duties are incidental to the person's other employment-related duties; or

(j) a person employed on a salaried basis by only one person.

(2) A licensed real estate broker on active status or a licensed real estate salesperson on active status and acting under a supervising broker may act as a property manager without meeting any qualifications in addition to those required for licensure as a real estate broker or real estate salesperson and without holding a separate property manager's license."

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Effective date. [This act] is effective on passage and approval.

Approved April 9, 2015

CHAPTER NO. 212

[HB 117]

AN ACT PROVIDING ADDITIONAL MECHANISMS FOR REGULATING UNLICENSED PRACTICE OF A PROFESSION OR OCCUPATION FOR THE STATE ELECTRICAL BOARD, BOARD OF PLUMBERS, AND BOARD OF REALTY REGULATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Administrative proceedings to stop unlicensed practice — board of realty regulation — state electrical board — board of plumbers. (1) For purposes of this section, the term "board" means the board of realty regulation provided for in 2-15-1757, the state electrical board provided for in 2-15-1764, or the board of plumbers provided for in 2-15-1765.

(2) (a) After investigation under 37-1-317, the board may establish a screening panel to determine if there is reasonable cause to believe a person has engaged in or is engaging in any act or practice constituting unlicensed practice of a profession or occupation.

(b) If reasonable cause is found under subsection (2)(a), the board may initiate a contested case proceeding against the person pursuant to the Montana Administrative Procedure Act in Title 2, chapter 4, part 6.

(3) Following a contested case proceeding, the board may apply any of the following sanctions to a person found to have engaged in the unlicensed practice of a profession or occupation:

(a) impose a civil penalty not to exceed $1,500 for each violation and not to exceed a total of $5,000 for all related violations; and

(b) require the person to pay up to $5,000 for the costs of the administrative proceedings, including but not limited to costs allowable under Title 25, chapter 10, but excluding the costs of investigation and the board's attorney fees.

(4) Judicial review of any contested case under this section must be filed with the first judicial district or the district where the violation occurred, pursuant to the Montana Administrative Procedure Act in Title 2, chapter 4, part 7.

(5) The remedies provided by this section are in addition to all other remedies or actions that may be taken, including those authorized by 37-1-317. The remedies provided by this section may not be applied either to licensees or to employees of licensees.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to acts or practices constituting unlicensed practice of a profession or occupation on or after [the effective date of this act].

Approved April 9, 2015

CHAPTER NO. 213

[HB 164]

AN ACT REVISING THE DISPOSITION OF PROCEEDS FROM A TRUSTEE SALE; ADDING ADDITIONAL FILING REQUIREMENTS UPON DEPOSIT OF SURPLUS FUNDS WITH THE COUNTY CLERK AND RECORDER; ALLOWING A LIENHOLDER TO FILE A PETITION REQUESTING DISBURSEMENT OF SURPLUS FUNDS FROM A TRUSTEE SALE TO SATISFY THE LIEN; REQUIRING THE COUNTY TREASURER TO DISBURSE SURPLUS FUNDS ACCORDING TO COURT ORDER; AND AMENDING SECTION 71-1-316, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 71-1-316, MCA, is amended to read:

"71-1-316. Disposition of proceeds of sale — *notice* — *surplus funds* — *attorney fees.* (1) *(a)* The trustee shall apply the proceeds of the trustee's sale as follows:

~~(a)~~*(i)* to the costs and expenses of exercising the power of sale and of the sale, including reasonable trustee's fees and attorney fees;

~~(b)~~*(ii)* to the obligation secured by the trust indenture *that is the subject of the sale*~~;~~.

~~(c)~~*(b)* ~~the surplus, if any, to the person or persons legally entitled to the surplus, or the trustee, in the trustee's discretion, may deposit the surplus with the clerk and recorder of the county in which the sale took place.~~ *Any surplus funds must be deposited with the clerk and recorder of the county in which the sale took place, along with written notice of the amount of the surplus funds and a copy of the notice of the trustee's sale. The trustee shall mail copies of the notice of the surplus funds, the notice of the trustee's sale, and the affidavit of mailing required under 71-1-315(2) to each party who was sent notice under 71-1-315.*

(2) Upon the deposit of the surplus *funds*, the trustee is discharged from all further responsibility for the surplus *funds*. The clerk and recorder shall deposit the surplus *funds* with the county treasurer. ~~The county treasurer shall pay the surplus funds as provided in a written order from the district court.~~

(3) (a) A party seeking disbursement of the surplus funds shall file a petition to request an order for disbursement in the district court for the county in which the surplus funds are deposited. The district court shall determine the order of priority of any interests in or liens or claims of liens against the surplus and shall issue a written order directing the county treasurer to disburse the surplus funds in accordance with the order.

(b) A party with an interest, lien, or claim that was junior to the interest that was the subject of the sale has an interest in the surplus funds in the same order of priority that existed in the property at the time of the sale.

(c) Not less than 20 days prior to the hearing, notice of the petition must be served upon any party who was sent notice of the surplus funds under subsection (1) and any other party who has entered an appearance in the proceeding.

(4) A party who is awarded any portion of the surplus funds because of an existing interest in or lien or claim of lien against the property is entitled to seek costs and attorney fees from the surplus funds. The costs and attorney fees must be allowed to each claimant whose lien is established, and the reasonable attorney fees must be allowed to the defendant against whose property a lien is claimed if a lien is not established."

Approved April 9, 2015

CHAPTER NO. 214

[HB 198]

AN ACT CLARIFYING THAT A BALLOT MAY NOT STATE A CANDIDATE'S TITLE OR CERTAIN OTHER DESIGNATIONS; AND AMENDING SECTIONS 13-12-203 AND 20-20-401, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-12-203, MCA, is amended to read:

"13-12-203. Appearance of candidate's name and party designation on ballot. (1) Subject to 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates, in partisan elections, candidates' names must appear under the title of the office sought, with the name of the party in not more than three words appearing opposite or below the name.

(2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear under the title of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must appear with the word "Nonpartisan".

(3) Except as otherwise provided by this section, information about the candidate other than the candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

Section 2. Section 20-20-401, MCA, is amended to read:

"20-20-401. Trustees' election duties — ballot certification. (1) The trustees are the general supervisors of school elections unless the trustees request and the county election administrator agrees to conduct a school election under 20-20-417.

(2) Not less than 25 days before an election, the clerk of the district shall prepare a certified list of the names of all candidates entitled to be on the ballot and the official wording for each ballot issue. *The candidates' names must appear on the ballot in accordance with 13-12-203.* The clerk shall arrange for printing the ballots. Ballots for absentee voting must be printed and available at least 20 days before the election, except as provided in 20-9-426(2) for a bond election not held in conjunction with a school election. Names of candidates on school election ballots need not be rotated.

(3) Before the opening of the polls, the trustees shall cause each polling place to be supplied with the ballots and supplies necessary to conduct the election."

Approved April 9, 2015

CHAPTER NO. 215

[HB 207]

AN ACT PROHIBITING GOVERNMENTAL BODIES FROM REQUESTING OR REQUIRING THE DISCLOSURE OF PRIVILEGED NEWS MEDIA INFORMATION FROM SERVICES THAT TRANSMIT ELECTRONIC COMMUNICATIONS; PROHIBITING AN ELECTRONIC COMMUNICATION SERVICE FROM BEING ADJUDGED IN CONTEMPT IF THE ELECTRONIC COMMUNICATION SERVICE REFUSES TO DISCLOSE CERTAIN INFORMATION; AND AMENDING SECTION 26-1-902, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 26-1-902, MCA, is amended to read:

"26-1-902. Extent of privilege — *definition.* (1) Without a person's consent, a person, including any newspaper, magazine, press association, news agency, news service, radio station, television station, or community antenna television service or any person connected with or employed by any of these for the purpose of gathering, writing, editing, or disseminating news, may not be examined as to or may not be required to disclose any information obtained or prepared or the source of that information in any legal proceeding if the information was gathered, received, or processed in the course of the person's employment or business.

(2) A person described in subsection (1) *or an electronic communication service used by that person* may not be adjudged in contempt by a judicial, legislative, administrative, or any other body having the power to issue

subpoenas for refusing to disclose or produce the source of any information or for refusing to disclose any information obtained or prepared in gathering, receiving, or processing information in the course of the person's business.

(3) A judicial, legislative, administrative, or other governmental body may not request or require the disclosure of information otherwise protected under subsection (1) from an electronic communication service.

(4) For the purposes of this section, "electronic communication service" means a service used to send, receive, transmit, store, or facilitate electronic communications."

Approved April 9, 2015

CHAPTER NO. 216

[HB 375]

AN ACT INCREASING MOTOR VEHICLE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR PROPERTY DAMAGE; AMENDING SECTION 61-6-103, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-6-103, MCA, is amended to read:

"61-6-103. Motor vehicle liability policy minimum limits — other requirements. (1) A motor vehicle liability policy must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to the coverage to be granted; and

(b) insure the person named in the policy and any other person, as insured, using any motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle or motor vehicles within the United States of America or Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows:

(i) $25,000 because of bodily injury to or death of one person in any one accident and subject to the limit for one person;

(ii) $50,000 because of bodily injury to or death of two or more persons in any one accident; and

(iii) ~~$10,000~~ *$20,000* because of injury to or destruction of property of others in any one accident.

(2) An operator's policy of liability insurance must insure the person named as insured in the policy against loss from the liability imposed upon the operator by law for damages arising out of the use by the operator of any motor vehicle not owned by the operator, within the same territorial limits and subject to the same limits of liability that are set forth in subsection (1) with respect to the operator's policy of liability insurance.

(3) A motor vehicle liability policy must state the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the policy period, and the limits of liability and contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this part with respect to bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

(4) A motor vehicle liability policy need not insure any liability under any workers' compensation law or any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(5) A motor vehicle liability policy is subject to the following provisions, which need not be contained in the policy:

(a) The liability of the insurance carrier with respect to the insurance required by this part becomes absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be canceled or annulled as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. A statement made by the insured or on behalf of the insured and a violation of the policy may not defeat or void the policy.

(b) The satisfaction by the insured of a judgment for the injury or damage may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount is deductible from the limits of liability specified in subsection (1)(b).

(d) The policy, the written application for the policy, if any, and any rider or endorsement that does not conflict with the provisions of this part constitute the entire contract between the parties.

(6) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium increase due to injury or damage incurred by the insured or operator unless the insured or operator is found to have violated a traffic law or ordinance of the state or a city, is found negligent or contributorily negligent in a court of law or by the arbitration proceedings contained in chapter 5 of Title 27, or pays damages to another party, whether by settlement or otherwise. A premium may not be increased during the term of the policy unless there is a change in exposure.

(7) Any policy that grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy that grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage required by this section.

(8) A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part.

(9) A motor vehicle liability policy may provide for the prorating of the insurance under the policy with other valid and collectible insurance.

(10) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet the requirements.

(11) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for the policy.

(12) A reduced limits endorsement may not be issued by a company to be attached to a policy issued in compliance with this section."

Section 2. Applicability. [This act] applies to motor vehicle insurance liability policies issued or renewed on or after January 1, 2016.

Approved April 9, 2015

CHAPTER NO. 217

[HB 392]

AN ACT ESTABLISHING PROVISIONS CONCERNING THE REEMPLOYMENT OF MEMBERS OF THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Reemployment of members. (1) If a retired member with less than 20 years of service in the retirement system who is at least 50 years of age returns to employment covered by the retirement system, on reemployment:

(a) the member's retirement benefit must cease;

(b) the member becomes a vested active member;

(c) the member shall repay the retirement system the amount of any retirement benefit received, plus interest at the actuarially assumed rate of return on the system's investments; and

(d) on subsequent retirement, the member's retirement benefit must be calculated based on the member's total service under the system.

(2) If a retired member with 20 or more years of service returns to employment covered by the retirement system, on reemployment:

(a) the member's retirement benefit must cease;

(b) the member becomes a vested active member;

(c) on subsequent retirement, the member's retirement benefit payable prior to the reemployment must resume; and

(d) the member is entitled to an additional new retirement benefit that is calculated based on the member's new service credit earned and final average compensation after the reemployment.

(3) If a member who is not a retired member returns to employment covered by the retirement system, on reemployment, the member becomes an active member and continues to accrue membership service or service credit as if there had been no break in service.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 19, chapter 9, and the provisions of Title 19, chapter 9, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to reemployment of members of the municipal police officers' retirement system on and after December 1, 2014.

Approved April 9, 2015

CHAPTER NO. 218

[HB 461]

AN ACT REVISING LAWS GOVERNING THE SALARY SCHEDULE OF A JUSTICE OF THE PEACE AND A DEPUTY COUNTY ATTORNEY; CLARIFYING THAT A JUSTICE OF THE PEACE MAY RECEIVE COMPENSATION IN ADDITION TO THE JUSTICE'S BASE SALARY; PROVIDING FOR LONGEVITY INCREASES FOR DEPUTY COUNTY ATTORNEYS; AMENDING SECTION 7-4-2503, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2503, MCA, is amended to read:

"7-4-2503. Salary schedule for certain county officers — county compensation board. (1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, county sheriff, county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812, justice of the peace, county coroner, and county auditor in all counties in which the office is authorized must be established by the county governing body based upon the recommendations of the county compensation board provided for in subsection (4).

(b) Except as provided in subsection (2), the annual salary established pursuant to subsection (1)(a) must be uniform for all county officers referred to in subsection (1)(a).

(2) (a) An elected county superintendent of schools must receive, in addition to the salary based upon subsection (1), the sum of $400 a year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up to $2,000 a year.

(b) The county sheriff must receive, in addition to the salary based upon subsection (1), the sum of $2,000 a year.

(c) The county sheriff must receive a longevity payment amounting to 1% of the salary determined under subsection (1) for each year of service with the sheriff's office, but years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases. The additional salary amount provided for in this subsection may not be included in the salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(d) If the clerk and recorder is also the county election administrator, the clerk and recorder may receive, in addition to the base salary provided in subsection (1)(a), up to $2,000 a year. The additional salary provided for in this subsection (2)(d) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(e) The county treasurer may receive, in addition to the base salary provided in subsection (1)(a), up to $2,000 a year. The additional salary provided for in this subsection (2)(e) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(f) The county coroner may be a part-time position, and the salary may be set accordingly.

(g) The justice of the peace for a justice's court of record may receive, in addition to the base salary provided in subsection (1)(a), compensation up to an amount allowed by 3-10-207.

(3) (a) Subject to subsection (3)(b), the salary for the county attorney must be set as provided in subsection (4).

(b) If the uniform base salary set for county officials pursuant to subsection (1) is increased, then the county attorney is entitled to at least the same increase unless the increase would cause the county attorney's salary to exceed the salary of a district court judge.

(c) (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of $1,000 on the anniversary date of employment as deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of $1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of additional service up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual ~~increase in~~ *longevity* salary *increase* of $500 *or a greater amount based on the schedule developed and recommended by the county compensation board as provided in subsection (4). Any additional annual longevity salary increase provided for in this section after the 11th year of service may not exceed the amount provided in the schedule developed and recommended by the county compensation board.*

(ii) The years of service accumulated after the 11th year of service as a deputy county attorney prior to July 1, 2015, may not be included in the calculation of the longevity increases by the county compensation board under this section.

~~(ii)~~*(iii)* The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase.

(4) (a) There is a county compensation board consisting of:

(i) the county commissioners;

(ii) three of the county officials described in subsection (1) appointed by the board of county commissioners;

(iii) the county attorney;

(iv) two to four resident taxpayers appointed initially by the board of county commissioners to staggered terms of 3 years, with the initial appointments of one or two taxpayer members for a 2-year term and one or two taxpayer members for a 3-year term; and

(v) (A) subject to subsection (4)(a)(v)(B), one resident taxpayer appointed by each of the three county officials described in subsection (4)(a)(ii).

(B) The appointments in subjection (4)(a)(v)(A) are not mandatory.

(b) The county compensation board shall hold hearings annually for the purpose of reviewing the compensation paid to county officers. The county compensation board may consider the compensation paid to comparable officials in other Montana counties, other states, state government, federal government, and private enterprise.

(c) The county compensation board shall prepare a compensation schedule for the elected county officials, including the county attorney, for the succeeding fiscal year. The schedule must take into consideration county variations, including population, the number of residents living in unincorporated areas, assessed valuation, motor vehicle registrations, building permits, and other

factors considered necessary to reflect the variations in the workloads and responsibilities of county officials as well as the tax resources of the county.

(d) A recommended compensation schedule requires a majority vote of the county compensation board, and at least two county commissioners must be included in the majority. A recommended compensation schedule may not reduce the salary of a county officer that was in effect on May 1, 2001.

(e) The provisions of this subsection (4) do not apply to a county that has adopted a charter form of government or to a charter, consolidated city-county government."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 9, 2015

CHAPTER NO. 219

[SB 338]

AN ACT EXCLUDING CERTAIN VEHICLES FROM CERTAIN MAXIMUM WEIGHT LIMITATIONS IF TRAVELING ON PORTIONS OF MONTANA HIGHWAY 16; EXTENDING RULEMAKING AUTHORITY; AND AMENDING SECTION 61-10-107, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-10-107, MCA, is amended to read:

"61-10-107. (Temporary) Maximum gross weight. (1) (a) An axle may not carry a load in excess of 20,000 pounds, and no two consecutive axles more than 40 inches or less than 96 inches apart may carry a load in excess of 34,000 pounds. An axle load is the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. For purposes of this section, axles 40 inches or less apart are considered to be a single axle. Except as provided in subsection (1)(b), the maximum gross weight allowed on a vehicle, group of axles, or combination of vehicles must be determined by the formula:

$$W = 500((LN/(N - 1)) + 12N + 36)$$

in which W equals gross weight, L equals wheelbase in feet, and N equals number of axles, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The maximum gross weight allowed on a vehicle may not exceed the weight limits adopted by the department. The department shall adopt rules for weight limits based upon the most recent version of 23 CFR, part 658, appendix c, for vehicles operating in Montana.

(b) A vehicle traveling on U.S. highway 93 from the border between Canada and the United States to 10 miles south of the border *or on Montana highway 16 from the border between Canada and the United States to 20 miles south of the border* is subject to the specific maximum allowable gross weight limit provided in rules adopted by the department but is not subject to maximum gross weight limits determined by the formula in subsection (1)(a).

(2) (a) Notwithstanding a vehicle's conformance with the requirements of subsection (1), except for the steering axle, all axles weighing over 11,000 pounds must have at least four tires or have wide-base tires. The maximum load on an axle, other than a steering axle, equipped with wide-base tires is limited to 500 pounds for each inch of tire width.

(b) The provisions of subsection (2)(a) do not apply to passenger buses.

(c) For the purposes of this section, wide-base tires are tires that are 14 or more inches in nominal width. The maximum tire weight limit is computed for wide-base tires based on the number of inches shown on the tire marking, or if the tire marking is shown by metric size, the tire weight limit is computed by conversion of the metric size.

(3) This section does not apply to highways that are a part of the national system of interstate and defense highways (as referred to in 23 U.S.C. 127) when application of this section would prevent this state from receiving federal funds for highway purposes. (Terminates on occurrence of contingency—sec. 2, Ch. 342, L. 2005.)

61-10-107. (Effective on occurrence of contingency) Maximum gross weight. (1) An axle may not carry a load in excess of 20,000 pounds, and no two consecutive axles more than 40 inches or less than 96 inches apart may carry a load in excess of 34,000 pounds. An axle load is the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. For purposes of this section, axles 40 inches or less apart are considered to be a single axle. The maximum gross weight allowed on a vehicle, group of axles, or combination of vehicles must be determined by the formula:

$W = 500((LN/(N - 1)) + 12N + 36)$

in which W equals gross weight, L equals wheelbase in feet, and N equals number of axles, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The maximum gross weight allowed on a vehicle may not exceed the weight limits adopted by the department. The department shall adopt rules for weight limits based upon the most recent version of 23 CFR, part 658, appendix c, for vehicles operating in Montana.

(2) (a) Notwithstanding a vehicle's conformance with the requirements of subsection (1), except for the steering axle, all axles weighing over 11,000 pounds must have at least four tires or have wide-base tires. The maximum load on an axle, other than a steering axle, equipped with wide-base tires is limited to 500 pounds for each inch of tire width.

(b) The provisions of subsection (2)(a) do not apply to passenger buses.

(c) For the purposes of this section, wide-base tires are tires that are 14 or more inches in nominal width. The maximum tire weight limit is computed for wide-base tires based on the number of inches shown on the tire marking, or if the tire marking is shown by metric size, the tire weight limit is computed by conversion of the metric size.

(3) This section does not apply to highways that are a part of the national system of interstate and defense highways (as referred to in 23 U.S.C. 127) when application of this section would prevent this state from receiving federal funds for highway purposes."

Approved April 9, 2015

CHAPTER NO. 220

[HB 99]

AN ACT GENERALLY REVISING THE ADMINISTRATION OF GASOLINE AND SPECIAL FUEL TAXES; COMBINING THE GASOLINE TAX AND SPECIAL FUEL TAX INTO ONE PART OF LAW; ALLOWING FOR THE ISSUANCE OF A PROBATIONARY DISTRIBUTOR'S LICENSE; ELIMINATING THE REISSUANCE FEE FOR A SUSPENDED OR REVOKED DISTRIBUTOR'S LICENSE; REVISING THE TIME PERIOD FOR WHICH DISTRIBUTORS MUST KEEP RECORDS; AMENDING SECTIONS 7-14-301, 7-14-304, 15-30-2618, 15-70-104, 15-70-113, 15-70-121, 15-70-231, 15-70-235, 15-70-236, 15-70-301, 15-70-320, 15-70-326, 15-70-330, 15-70-341, 15-70-343, 15-70-344, 15-70-345, 15-70-348, 15-70-349, 15-70-351, 15-70-352, 15-70-353, 15-70-354, 15-70-356, 15-70-357, 15-70-361, 15-70-362, 15-70-364, 15-70-366, 15-70-503, 15-70-521, 15-70-522, 15-70-719, 60-3-201, 60-3-202, 61-12-206, 67-1-301, 75-11-302, AND 75-11-314, MCA; AND REPEALING SECTIONS 15-70-201, 15-70-202, 15-70-204, 15-70-205, 15-70-206, 15-70-207, 15-70-208, 15-70-209, 15-70-210, 15-70-211, 15-70-212, 15-70-221, 15-70-222, 15-70-223, 15-70-224, 15-70-225, 15-70-226, 15-70-232, 15-70-233, 15-70-242, 15-70-321, 15-70-324, AND 15-70-372, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-301, MCA, is amended to read:

"7-14-301. Local option motor fuel excise tax authorized — definitions. (1) A motor fuel excise tax may be imposed within a county:

(a) by the people of the county by initiative; or

(b) by the board of county commissioners by adoption of a resolution and referral to the people.

(2) The motor fuel excise tax must be imposed in increments of 1 cent ~~per~~ *a* gallon and may not exceed 2 cents ~~per~~ *a* gallon. The tax must be imposed ~~upon~~ *on* gasoline sold to the ultimate consumer within the county for use in motor vehicles operated ~~upon~~ *on the* public *roads and* highways~~, streets, and roads~~ *of this state*.

(3) The initiative or referendum must specify that the tax is to be collected by the county treasurer.

(4) The motor fuel excise tax may not be assessed sooner than 90 days from the date of passage of the initiative or referendum.

(5) By the 25th day of each month, each retail seller of gasoline shall render a monthly statement to the county treasurer of all gasoline sold during the preceding calendar month in the county in which it is sold to the ultimate consumer and other information that the county treasurer requires in order to administer the motor fuel excise tax.

(6) The county treasurer shall establish procedures to provide a refund to a person who has paid the tax but who can substantiate that the motor fuel was purchased for a use other than on *the* public *roads and* highways~~, streets, and roads~~ *of this state*.

(7) In this part, the terms "gasoline", "motor vehicle", "person", and "use" have the meanings ascribed to them in ~~15-70-201~~ *15-70-301*."

Section 2. Section 7-14-304, MCA, is amended to read:

"7-14-304. Collection of delinquent tax — interest and penalty — statute of limitations. (1) Motor fuel *excise* taxes imposed pursuant to

7-14-301 and collected by a retail seller but not transmitted to the county treasurer are delinquent after the date that they are due to the county treasurer and become a lien ~~upon~~ *on* all real and personal property owned by the retail seller in the county. The county shall collect the delinquent motor fuel *excise* taxes in the manner that delinquent personal property taxes are collected.

(2) Penalties and interest for ~~any~~ *a* delinquent motor fuel excise tax are the same as provided for the gasoline license tax under Title 15, chapter 70, part ~~2~~ *3*.

(3) Any action to recover a delinquent motor fuel excise tax must be initiated within 3 years from the due date of the return or the date of filing the return, whichever period expires later. Upon discovery of fraud, an action must be initiated within 3 years of the discovery."

Section 3. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.

(5) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding $500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(7) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(8) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax ~~upon~~ *on* the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(9) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under ~~15-70-223 or~~ 15-70-362, provided that notice to the applicant has been given as provided in ~~15-70-223 and~~ 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20."

Section 4. Section 15-70-104, MCA, is amended to read:

"15-70-104. Rules to be established by department. (1) The department of transportation shall adopt, publish, and enforce the rules consistent with and necessary for carrying out the provisions of this chapter.

(2) The department may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of:

~~(a) part 2;~~

~~(b) part 3;~~

~~(c) part 7; and~~

~~(d)~~ *parts 3 and 7 and* the International Fuel Tax Agreement authorized by 15-70-121."

Section 5. Section 15-70-113, MCA, is amended to read:

"15-70-113. Total remittance payable by electronic funds transfer. (1) Total remittance due the state may be paid by electronic funds transfer.

(2) If the payment of total remittance is by electronic funds transfer under this section and the due date falls on a Saturday, Sunday, or legal holiday, the payment must be made on the first business day following the Saturday, Sunday, or legal holiday.

(3) If the payment of the tax due on gasoline or special fuel pursuant to ~~15-70-205 and~~ 15-70-344 is made by electronic funds transfer, the payment due date is 5 days after the 25th day of each calendar month."

Section 6. Section 15-70-121, MCA, is amended to read:

"15-70-121. International Fuel Tax Agreement. (1) The department of transportation may enter into the International Fuel Tax Agreement for audits, exchange of information, and collection and distribution of motor fuel taxes pertaining to users of motor fuel in fleets of motor vehicles operated or intended to operate across jurisdictional boundaries. The International Fuel Tax Agreement is not effective unless it is in writing and is signed by the department and the department has adopted rules implementing the agreement.

(2) The agreement may determine:

(a) the base jurisdiction for motor fuel users;

(b) motor fuel user records requirements;

(c) audit procedures;

(d) procedures for the exchange of information;

(e) persons eligible for tax licensing;

(f) the definition of qualified motor vehicles;

(g) bonding requirements;

(h) reporting requirements and periods;

(i) uniform penalty and interest rates for late reporting or payment of taxes;

(j) methods for collecting and forwarding of motor fuel taxes and penalties to another jurisdiction; and

(k) other provisions to facilitate the administration of the agreement.

(3) The department may, as required by the terms of the agreement, forward to officers of another jurisdiction any information in its possession relative to the manufacture, receipt, sale, use, transportation, or shipment of motor fuel. The department may disclose to officers of another jurisdiction the location of offices, motor vehicles, and other real and personal property of users of motor fuel.

(4) The agreement may provide each jurisdiction authority to audit the records of persons based in the jurisdiction to determine if the motor fuel taxes due each jurisdiction are properly reported and paid. Each jurisdiction shall forward the findings of the audits performed on persons based in the jurisdiction to each jurisdiction in which the person has taxable use of motor fuel. For a person not based in Montana who has taxable use of motor fuel in Montana, the department may serve the audit findings received from another jurisdiction in the form of an assessment on the person, as though an audit was conducted by the department.

(5) The agreement entered into pursuant to this section does not preclude the department from auditing the records of any person covered by the provisions of this chapter.

(6) If the specific requirements of the agreement, as the agreement reads on the effective date of adoption by the department, differ from the general provisions of this chapter or other rules promulgated by the department, the rules implementing the cooperative agreement prevail.

(7) The legal remedies for a person served with an order or assessment under this section are as prescribed in this chapter.

(8) As used in this section:

(a) "agreement" means the International Fuel Tax Agreement provided for in this section; and

(b) "motor fuel" ~~means~~ *includes* gasoline ~~as defined in 15-70-201~~ and special fuel as defined in 15-70-301."

Section 7. Section 15-70-231, MCA, is amended to read:

"15-70-231. Unlawful use of aviation fuel. It is unlawful for any person to use aviation fuel or to sell aviation fuel for use in any motorized vehicle operated ~~upon~~ *on* the public *roads and* highways ~~or streets~~ of this state. Violation of this section is a misdemeanor subject to the penalties provided in ~~15-70-232~~ *15-70-366*."

Section 8. Section 15-70-235, MCA, is amended to read:

"15-70-235. Tribal motor fuels administration account. (1) There is a *tribal motor fuels administration account in the state* special revenue ~~account called the tribal motor fuels administration account~~ *fund*.

(2) The *department must deposit in the tribal motor fuels administration account* administrative expenses and ~~refund amounts~~ *refunds* deducted ~~by the department of transportation~~ under ~~an~~ *a cooperative* agreement ~~must be deposited in the tribal motor fuels administration account~~ *provided for in 15-70-234*.

(3) The *department of transportation or the department of justice may expend the* tribal motor fuels administration account ~~may be expended by the department of transportation or by the department of justice~~ only for the

purposes of administering the ~~motor fuels tax~~ *gasoline tax* and providing refunds under ~~an~~ *a cooperative* agreement."

Section 9. Section 15-70-236, MCA, is amended to read:

"15-70-236. Tribal motor fuels tax account. (1) There is a *tribal motor fuels tax account in the state* special revenue ~~account called the tribal motor fuels tax account~~ *fund*.

(2) The *department must deposit in the tribal motor fuels tax account the* tax collected under 15-70-234, except the administrative expenses and ~~refund amounts~~ *refunds* deducted under ~~an~~ *a cooperative* agreement~~, must be deposited in the tribal motor fuels tax account~~.

(3) The money in the tribal motor fuels tax account must be disbursed to the tribe *quarterly*, as provided for in the agreement entered into pursuant to 15-70-234~~, on a quarterly basis~~."

Section 10. Section 15-70-301, MCA, is amended to read:

"15-70-301. Definitions. As used in this part, the following definitions apply:

(1) "Agricultural use" means use of *gasoline or* special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) "Aviation fuel" means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

~~(2)~~*(3)* (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

~~(3)~~*(4)* "Bulk delivery" means placing *gasoline or* special fuel not intended for resale in storage or containers. The term does not mean *gasoline or* special fuel delivered into the supply tank of a motor vehicle.

~~(4)~~*(5)* "Cardtrol" or "keylock" means a unique device intended to allow access to a ~~special~~ fuel dealer's unattended pump or dispensing unit for the purpose of delivery of *gasoline or* special fuel to an authorized user of the unique device.

~~(5)~~*(6)* "Department" means the department of transportation.

~~(6)~~*(7)* (a) "Distributed" means~~, at the time that~~ *the withdrawal of gasoline or* special fuel ~~is withdrawn, the withdrawal~~ from a ~~storage tank, a~~ refinery~~,~~ or ~~a~~ terminal storage*, other than by pipeline, by a licensed distributor* ~~in this state~~ for sale or use in this state ~~or for the transportation other than by pipeline to another refinery in this state or a pipeline terminal in this state of the following~~*, including*:

(i) *gasoline or* special fuel refined, produced, manufactured, or compounded in this state and placed in storage tanks in this state;

(ii) *gasoline or* special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the refinery or terminal; or

(iii) *gasoline or* special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

~~(b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed only by a person who is the holder of a valid distributor's license.~~

~~(c)~~*(b)* ~~Special~~ *Gasoline or special* fuel imported into this state, other than ~~that~~ *gasoline or* special fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

~~(7)~~*(8)* (a) "Distributor" means:

(i) a person who engages in the business in this state of producing, refining, manufacturing, or compounding *gasoline or* special fuel for sale, use, or distribution;

(ii) an importer who imports *gasoline or* special fuel for sale, use, or distribution;

(iii) a person who engages in the wholesale distribution of *gasoline or* special fuel in this state and chooses to become licensed to assume the Montana state *gasoline tax or* special fuel tax liability; ~~and~~

(iv) an exporter*;*

(v) a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

(vi) a person in Montana who blends ethanol with gasoline.

(b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person ~~upon~~ *on* the public roads and highways of the state.

(9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in the blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured ethanol and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline would be reflected as E-85.

~~(8)~~*(11)* "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, *gasoline or* special fuel received from a refinery or pipeline terminal within Montana.

~~(9)~~*(12)* "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, *gasoline or* special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption outside Montana.

(13) (a) "Gasoline" includes:

(i) all petroleum products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines; and

(ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the additive's classifications or uses.

(b) "Gasoline" does not include special fuels as defined in this section.

~~(10)~~*(14)* "Import" means to first receive *gasoline or* special fuel into possession or custody after its arrival and coming to rest at a destination within the state or to first receive any *gasoline or* special fuel shipped or transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

~~(11)~~*(15)* "Importer" means a person who transports or arranges for the transportation of *gasoline or* special fuel into Montana for sale, use, or distribution.

~~(12)~~*(16)* "Improperly imported fuel" means *gasoline or* special fuel that is:

(a) consigned to a Montana destination and imported into the state without the distributor first having obtained a Montana ~~special fuel~~ distributor license as required in 15-70-341; or

(b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15, chapter 70.

~~(13)~~*(17)* "Motor vehicle" means all vehicles that are operated ~~upon~~ *on* the public *roads and* highways ~~or streets~~ of this state and that are operated in whole or in part by the combustion of *gasoline or* special fuel.

~~(14)~~*(18)* "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied to joint-stock companies and corporations, the officers.

~~(15)~~*(19)* "Public roads and highways of this state" means all streets, roads, highways, and related structures:

(a) built and maintained with appropriated funds of the United States, the state of Montana, or any political subdivision of the state;

(b) dedicated to public use;

(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any political subdivision of the state.

~~(16)~~*(20)* "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons annually of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person ~~upon~~ *on* the public roads and highways of the state.

~~(17)~~*(21)* "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles operating ~~upon~~ *on* the public roads and highways ~~within the~~ *of this* state ~~of Montana~~. The term ~~special fuel~~ *"special fuel"* includes biodiesel and additives of all types when the additive is mixed or blended into special fuel, regardless of the additive's classifications or uses.

~~(18) "Special fuel dealer" means:~~

~~(a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by the person;~~

~~(b) a person who sells special fuel at a location unattended by the dealer through an unattended pump by use of a cardtrol, keylock, or similar device; or~~

~~(c) a person who provides a facility, with or without attended services, from which more than one special fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.~~

~~(19)~~*(22)* (a) "Special fuel user" means a person who consumes ~~in this state~~ special fuel for the operation of motor vehicles owned or controlled by the person ~~upon~~ *on* the *public roads and* highways of this state.

(b) The term does not include:

(i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state; or

(ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person ~~upon~~ *on* the public roads and highways of ~~the~~ *this* state.

~~(20)~~*(23)* "Use"~~, when the term relates to a special fuel user,~~ means the ~~consumption by a special fuel user of special fuels in the~~ operation of a motor vehicle on the *public roads and* highways of this state *or of any political subdivision of this state*.

~~(21)~~*(24)* "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food processors."

Section 11. Section 15-70-320, MCA, is amended to read:

"15-70-320. Exemption from special fuel tax. (1) Subject to the conditions of this section, a special biodiesel fuel producer is exempt from the special fuel tax imposed by ~~15-70-321~~ *15-70-343* on biodiesel produced by the producer from waste vegetable oil feedstock.

(2) This section does not apply to special fuel used for agricultural purposes pursuant to 15-70-362.

(3) To qualify for the exemption under this section, the special biodiesel fuel producer shall:

(a) register annually with the department; and

(b) report on the amount of biodiesel produced and used by the producer in a calendar year by February 15 of the succeeding year."

Section 12. Section 15-70-326, MCA, is amended to read:

"15-70-326. Computation. *(1) The tax imposed on the distributor under 15-70-343(1) may be rounded to the nearest whole dollar amount.*

(2) The tax imposed ~~by this part~~ *under 15-70-343(4) on owners or operators of the motor vehicles operating on the public roads and highways of this state* must be computed, with respect to *gasoline or* special fuel for which the tax has not been paid in this state and that has been consumed by the purchaser ~~as a special fuel user~~, by multiplying the *corresponding* tax rate per gallon *as* provided in ~~this part~~ *15-70-343(1)* by the number of gallons of *gasoline or* special fuel consumed by the ~~special fuel user~~ *person* in the operation of motor vehicles on the *public roads and* highways of this state."

Section 13. Section 15-70-330, MCA, is amended to read:

"15-70-330. ~~Special fuel~~ *Dyed special fuel restrictions* — penalties. ~~(1) Whenever a special fuel user files a return but fails to pay in whole or in part the tax due under this part, interest at the rate of 1% a month or fraction of a month from the date on which the tax was due to the date of payment in full must be added to the amount due and unpaid.~~

~~(2)~~*(1)* (a) A person may not use dyed special fuel to operate a motor vehicle ~~upon~~ *on* the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection (2)(c).

(b) *(i)* The purposeful or knowing use of dyed special fuel in a motor vehicle operating ~~upon~~ *on* the public roads and highways of this state in violation of this subsection ~~(2)~~ *(1)* is subject to the civil penalty imposed under ~~15-70-372(2)~~ *subsection (1)(b)(ii)*. Each use is a separate offense. *The civil penalty may be in addition to criminal penalties imposed under 15-70-366.*

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed $1,000 for the first offense and $5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-366.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on *the* public *roads and* highways~~, public roads, or streets~~ *of this state* when using dyed *special* fuel or nontaxed fuel.

~~(3)~~*(2)* The operator of the vehicle is liable for the tax imposed in ~~15-70-321~~ *15-70-343*. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the *dyed* special fuel is jointly and severally liable for the tax imposed under ~~15-70-321~~ *15-70-343* and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose."

Section 14. Section 15-70-341, MCA, is amended to read:

"15-70-341. License and security of ~~special fuel~~ distributors — denial or ~~revocation of license~~ *disciplinary action* ~~— reissuance fee~~. (1) (a) ~~Each~~ *Prior to doing business, each gasoline or* special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-301, ~~prior to the commencement of doing business,~~ shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of *gasoline or* special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports ~~special~~ fuel~~, or both,~~ is $25,000.

(c) Upon approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered or revoked.

(2) The department may deny the issuance of a ~~special fuel~~ distributor license or ~~revoke a special fuel distributor license~~ *take disciplinary action against the distributor* if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the *gasoline or* special fuel ~~license~~ tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

~~(3)~~*(4)* If an application for a ~~special fuel~~ distributor license is denied or revoked *or if the distributor is under disciplinary action*, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

~~(4) If the distributor's license is surrendered or revoked, the distributor shall pay a reissuance fee of $100.~~

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

~~(5)~~*(6)* Failure to obtain a ~~special fuel~~ distributor license as required in this section subjects the distributor to the provisions of 15-70-357 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

~~(6)~~*(7)* As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties; ~~or~~

(b) ~~(i)~~ a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

~~(ii)~~*(c)* certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

~~(7)~~*(8)* The owner of a commercial motor vehicle that is engaged in transporting *gasoline or* special fuel for a distributor is not subject to the provisions of this section.

~~(8)~~*(9)* A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the *special fuel* tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid."

Section 15. Section 15-70-343, MCA, is amended to read:

"15-70-343. ~~Special~~ *Gasoline and special* fuel ~~license~~ tax — ~~rate~~ *incidence — rates.* (1) *The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state.* Each distributor shall pay to the department of transportation a ~~license~~ tax ~~for the privilege of engaging in and carrying on business in this state. The license tax is in the amount imposed under 15-70-321 for each gallon of special fuel that is distributed by the distributor within the state and upon which the special fuel license tax has not been paid by any other distributor.~~ *in an amount equal to:*

(a) 27 cents for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor;

(b) 27 3/4 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) ~~Special~~ *Gasoline or special* fuel may not be included in the measure of the distributor's ~~license~~ tax if it is~~:~~

~~(a) dyed by injector at a refinery or terminal for off-highway use; or~~

~~(b)~~ sold for export, unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(3) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(4) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(5) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(6) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

(7) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (6) must be produced using fuel on which Montana fuel tax has been paid."

Section 16. Section 15-70-344, MCA, is amended to read:

"15-70-344. Distributor's statement and payment — confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, except as provided in 15-70-113(3), render to the department of transportation a signed statement that specifies all *gasoline or* special fuel distributed and received by the distributor in this state during the preceding calendar month and that contains other information the department may reasonably require in order to administer the ~~special~~ fuel ~~license~~ tax law. The statement must be

accompanied by a payment in an amount equal to the tax imposed by 15-70-343, less any refund credit issued under 15-70-356 and less 1% of the total tax that may be deducted by the distributor as an allowance for collection. *An allowance may not be deducted from the 4-cent tax on aviation fuel.*

(2) A distributor engaged in or carrying on a business at more than one location in this state may include all places of business in one statement.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of ~~special~~ fuel. This section does not prohibit:

(a) the delivery to a distributor or a distributor's authorized representative of a certified copy of any return or report filed in connection with the distributor's tax;

(b) the inspection by the attorney general or by another legal representative of the state of the report or return of a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on *gasoline or* special fuel or by any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 17. Section 15-70-345, MCA, is amended to read:

"15-70-345. Recordkeeping requirements. Each distributor or any other person dealing in, transporting, receiving, or storing *gasoline or* special fuel shall keep ~~for a period not to exceed 3 years the~~ records, receipts, and invoices and any other pertinent papers and information that the department of transportation may require *for a minimum of 3 years*."

Section 18. Section 15-70-348, MCA, is amended to read:

"15-70-348. Invoice of distributors *and aviation dealers.* Each distributor *and aviation dealer* in this state shall at the time of delivery, except when authorized by the department of transportation, issue to the purchaser an invoice that states the number of gallons of *gasoline or* special fuel covered by the invoice and *any* other information the department may require."

Section 19. Section 15-70-349, MCA, is amended to read:

"15-70-349. Examination of records. (1) The department or its authorized representative may examine the books, papers, records, and equipment of any ~~special fuel~~ distributor*, special fuel user,* or ~~any~~ person dealing in, transporting, or storing *gasoline or* special fuel, as defined in this part, and may investigate the character of the disposition that any person makes of the *gasoline or* special fuel in order to ~~ascertain and~~ determine whether all ~~license~~ taxes due are being properly reported and paid. If the books, papers, records,

and equipment are not maintained in this state at the time of demand, they must be furnished at the direction of the department for review either in the offices of the department or at the business location of the taxpayer.

(2) The records, receipts, ~~and~~ invoices*,* and any other pertinent papers supporting sales of each distributor or any person dealing in, transporting, or storing *gasoline or* special fuel must be open and subject to inspection by the department or its authorized representative during business hours ~~in order~~ to ~~ascertain~~ *determine* the amount of ~~license~~ *gasoline or special fuel* tax due.

(3) The department may physically inspect terminals, dyes, dyeing equipment, storage facilities, and downstream storage facilities. A person who purposely or knowingly refuses to permit an inspection authorized by this section is guilty of a misdemeanor punishable by a fine not to exceed $500 upon conviction for the first offense, not to exceed $1,000 upon conviction for the second offense, and not to exceed $2,000 for each subsequent conviction. Each refusal is a separate offense.

(4) For the purpose of enforcing the provisions of this part, the fact that a person has placed or received gasoline or special fuel into storage or dispensing equipment designed to fuel motor vehicles is prima facie evidence that all of the gasoline or special fuel has been delivered by the person into the fuel supply tanks of motor vehicles and consumed in the operation of motor vehicles on the public roads and highways of this state unless the contrary is established by satisfactory evidence.

(5) The department may establish vehicle inspection sites and may stop, detain, and inspect vehicles propelled by special fuel. A person who purposely or knowingly refuses to permit an inspection authorized by this section is guilty of a misdemeanor punishable by a fine not to exceed $500 upon conviction of the first offense, not to exceed $1,000 upon conviction for the second offense, and not to exceed $2,000 for each subsequent conviction. Each refusal is a separate offense.

(6) The department shall, upon request from officials entrusted to enforce the fuel tax laws of any other state, the District of Columbia, the United States, its territories and possessions, or the provinces of Canada, forward to the officials any information that it may have relative to the receipt, storage, delivery, sale, use, or other disposition of motor fuel by any distributor or special fuel user if the other state or states furnish similar information to this state."

Section 20. Section 15-70-351, MCA, is amended to read:

"15-70-351. Information reports — penalty — confidentiality. (1) A person receiving *gasoline or* special fuel, including an importer, exporter, common carrier, private carrier, and contract carrier of property who hauls, receives, transports, or ships *gasoline or* special fuel from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state shall submit to the department of transportation, upon its request and within the time specified, a statement showing the number of gallons of *gasoline or* special fuel contained in each shipment in interstate commerce and the movement of the products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and addresses of the consignor and the consignee, and the date of delivery to the consignee.

(2) A person, except a licensed distributor, importer, or exporter, who refuses or fails to file a statement as required in this section is subject to a penalty of $100 for each failure or refusal.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of *gasoline or* special fuel. This section may not be construed to prohibit:

(a) the delivery to a person or the person's authorized representative of a certified copy of any report filed under subsection (1);

(b) the inspection by the attorney general or other legal representative of the state of the report or statement of a person if a person or distributor brings an action to set aside or review the tax based on the report or statement or if an action or proceeding has been instituted in accordance with the provisions of Title 15 against that person or distributor;

(c) the publication of statistics classified to prevent the identification of particular reports or statements and the items in the reports or statements;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on *gasoline or* special fuel or by the authorized representative of either officer of the report or statement of any person or the furnishing to the officer or authorized representative of an abstract of the report or statement, but permission may be granted or information may be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 21. Section 15-70-352, MCA, is amended to read:

"15-70-352. Penalties for delinquency. (1) Any ~~license~~ *fuel* tax not paid within the time provided in 15-70-113(3) and 15-70-344 is delinquent, a penalty of 10% is added to the tax, and the tax bears interest at the rate of 1%, prorated daily, on the tax due for each calendar month. Upon a showing of good cause by the distributor, the department may waive the penalty.

(2) If a distributor or other person subject to the payment of the ~~license~~ tax willfully fails, neglects, or refuses to make any statement required by this part or willfully fails to make payment of the ~~license~~ tax within the time provided, the department may revoke any license issued under this part.

(3) The department shall set forth the information it requires in the statement and determine the amount of the ~~license~~ tax due from the distributor and shall add a penalty of $100 or 10% of the amount due, whichever is greater, together with an interest rate of 1% a month, prorated daily, from the date the statements should have been made and the ~~license~~ tax should have been paid.

(4) The department shall proceed to collect the ~~license~~ tax, with penalties and interest. At the request of the department, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the ~~license~~ tax."

Section 22. Section 15-70-353, MCA, is amended to read:

"15-70-353. Fraudulent returns — penalty. If a ~~special fuel~~ distributor files a false or fraudulent return with intent to evade the tax imposed by this part, there is added to the amount of deficiency determined by the department of transportation a penalty equal to 25% of the deficiency, together with interest at *the rate of* 1% ~~per~~ *a* month*, prorated daily,* ~~or fraction of a month~~ on the

deficiency from the date the tax was due to the date of payment, in addition to all other penalties prescribed by law."

Section 23. Section 15-70-354, MCA, is amended to read:

"15-70-354. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department of transportation may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded thereafter. An action may not be maintained to enjoin the collection of all or any part of the ~~license~~ tax."

Section 24. Section 15-70-356, MCA, is amended to read:

"15-70-356. Refund or credit authorized. (1) A person who purchases and uses any *gasoline or* special fuel on which the Montana *gasoline or* special fuel ~~license~~ tax has been paid for *denaturing ethanol to be used in ethanol-blended gasoline,* operating stationary *gasoline or* special fuel engines used off the public *roads and* highways ~~and streets~~ *of this state,* or for any commercial use other than operating vehicles ~~upon~~ *on* any of the public *roads and* highways ~~or streets~~ of this state is allowed a refund of the amount of tax paid directly or indirectly on the *gasoline or* special fuel used if the person has records, as provided in 15-70-361, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state. *Except as provided in subsection (6), a refund is not allowed for the tax per gallon on aviation fuel allocated to the department of transportation as provided in 67-1-301.*

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(3) A distributor who pays the *gasoline or* special fuel ~~license~~ tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of *gasoline or* special fuel with a tax liability of $200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(5) A person who purchases and exports for sale, use, or consumption outside Montana any *gasoline or* special fuel on which the Montana *gasoline or* special fuel tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel

is destined. Upon completion of the reports required under 15-70-351, the department shall authorize the credit or refund.

(6) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline tax has been paid. The refund must be paid from the account established in 67-1-301(3)(a)(ii)."

Section 25. Section 15-70-357, MCA, is amended to read:

"15-70-357. Improperly imported fuel — seizure. (1) As used in this section, the following definitions apply:

(a) "Conveyance" means a tank car, vehicle, or vessel that is used to transport fuel.

(b) "Department" means the department of transportation.

(c) "Peace officer" means an employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201.

(2) Pursuant to 61-12-206(5), a peace officer may:

(a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and

(b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in ~~15-70-202 and~~ 15-70-341.

(3) The peace officer shall obtain authorization from the director of the department of transportation or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

(a) direct the rerouting or transfer of the fuel to a location designated by the department. The department shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the department.

(b) unload the fuel; and

(c) take three samples of the fuel from the cargo tank for examination.

(5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice of right to file claim for the return of interest or title to the fuel. The notice must be issued to:

(a) the original owner of the fuel;

(b) the owner of the transportation company that conveyed the fuel; and

(c) any other interested party.

(6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the department shall:

(a) provide the opportunity for a hearing;

(b) if requested, conduct the hearing within 5 days after receiving the claim;

(c) make a final determination of the party to take interest or title to the fuel within 2 working days after the hearing; and

(d) mail notice of the department's determination to interested parties.

(7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

(i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established in department administrative rule; or

(ii) use the forfeited fuel for a public purpose determined by the department.

(b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized fuel.

(c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

(i) the applicable taxes, fees, and penalties, which the department shall deposit in a highway revenue account in the state special revenue fund, as required in 15-70-101; and

(ii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly imported fuel.

(8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel, the department may:

(a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day of the seizure; or

(b) return the fuel.

(9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

(a) fails to file a claim for the seized fuel within the time allowed in subsection (6); or

(b) is determined to be guilty of violating fuel tax laws.

(10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal fuel importation in Title 15, chapter 70."

Section 26. Section 15-70-361, MCA, is amended to read:

"15-70-361. Required records. (1) Except as provided in subsection ~~(5)~~ *(6)*, *gasoline or* special fuel purchased and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must be fully accounted for by detailed withdrawal records to accurately show the manner in which it was used. ~~Special~~ *Gasoline or special* fuel on hand, determined by actual measurement, must be deducted from a claim and must be reported as an opening inventory on the next claim.

(2) Service stations, bulk dealers, and marinas shall prepare a separate and complete invoice for each withdrawal of *gasoline or* special fuel for which a refund is to be claimed.

(3) Special storage facilities used for certain periods must be identified and explained. If gasoline or special fuel withdrawn from special storage is used entirely for off-highway purposes and is not used in licensed vehicles, no records will be required other than purchase invoices showing the delivery into special storage.

~~(3)~~*(4)* When ~~a~~ *no* highway use of *gasoline or* special fuel is ~~not~~ deducted from the claim, the applicant shall substantiate purchases of *gasoline or* special fuel and miles traveled for licensed motor vehicles ~~upon~~ *on* request of the department of transportation.

~~(4)~~*(5)* Any person who operates a licensed motor vehicle on and off the public roads for commercial purposes may claim refund of the state ~~license~~ tax on the *gasoline or* special fuel used to operate the vehicle on roads or property in private ownership if the person has maintained the following records:

(a) the total number of miles traveled on and off public roads by each licensed vehicle;

(b) the total number of gallons of *gasoline or* special fuel used in each vehicle; and

(c) purchase invoices supporting all *gasoline or* special fuel handled through bulk storage.

~~(5)~~*(6)* The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is not required to keep dispersal records in order to claim a refund of special fuel taxes.

~~(6)~~*(7)* An exporter or any other person who transports *gasoline or* special fuel out of Montana for sale, use, or consumption outside Montana shall maintain detailed and current records of withdrawal, transportation, ownership, and delivery of the *gasoline or* special fuel to destinations outside Montana as required by the department."

Section 27. Section 15-70-362, MCA, is amended to read:

"15-70-362. Estimate allowed for agricultural use — seller's signed statement acceptable on keylock or cardtrol purchases. (1) An applicant whose use qualifies as agricultural use may apply for a refund of the applicable tax on the gallons of *gasoline or* special fuel as indicated by bulk delivery invoices or by evidence of keylock or cardtrol purchases as an estimate of ~~off-roadway~~ *off-highway* use. *To ensure that the applicant's use qualifies as agricultural use, the department of transportation may request state or federal income tax information from the applicant or the department of revenue to determine the ratio of the applicant's gross earned farm income to total gross earned income, excluding unearned income, provided that the department of transportation gives notice to the applicant.*

(2) For purposes of application for a refund under subsection (1), the department shall accept, as evidence of keylock or cardtrol purchases, a statement of the sale of gasoline or special fuel with applicable Montana tax that identifies the purchaser and specifically identifies the transaction as a keylock or cardtrol purchase.

~~(2)~~*(3)* An applicant may apply for a refund of the applicable tax on gallons of *gasoline or* special fuel as ~~evidenced~~ *indicated* by bulk delivery invoices or by evidence of keylock or cardtrol purchases according to the applicant's ratio of gross earned farm income to total gross earned income, excluding unearned income, as follows:

(a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the *gasoline or* special fuel tax;

(b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the *gasoline or* special fuel tax;

(c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the *gasoline or* special fuel tax; *and*

(d) if the ratio is less than 30%, the applicant is not eligible for a refund of the *gasoline or* special fuel tax under this section.

~~(3)~~*(4)* If the applicant's ratio in any of the 3 previous years on record is higher than the present year, the highest ratio must be used to calculate the eligible refund.

~~(4)~~*(5)* If any invoice or evidence is either lost or destroyed, the purchaser may support the purchaser's claim for refund by submitting an affidavit relating

the circumstances of the loss or destruction and by producing other evidence that may be required by the department of transportation.

~~(5)~~*(6)* An applicant whose use does not qualify as agricultural use may not estimate and shall maintain records as required by 15-70-361."

Section 28. Section 15-70-364, MCA, is amended to read:

"15-70-364. Application for refund or credit — filing — correction by department. (1) (a) Except as provided in subsection (1)(b), the application for a refund must be a signed statement on a form furnished by the department. Except for a claim for a credit for taxes paid on unpaid accounts or *special fuel* taxes paid by the United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state or except for a claim for a refund filed electronically, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery and must show the total amount of *gasoline or* special fuel purchased~~,~~ *or aviation fuel purchased by a certified scheduled passenger air carrier,* the total amount of *gasoline or* special fuel on which a refund is claimed, and the amount of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim must be furnished as required by the department.

(b) A claim for a refund that is filed electronically in the manner specified by the department does not require a signature or the original invoices.

(c) A claim for a refund that is filed electronically does not relieve the taxpayer of maintaining records ~~upon~~ *on* which the claim for a refund is based.

(2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as defined in 15-70-301, is not valid for refund purposes.

(3) All applications for refunds must be filed with the department within 36 months after the date on which the *gasoline or* special fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by the distributor on unpaid accounts within 3 years after the date of payment.

(4) If the department finds that the statement contains errors that are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 29. Section 15-70-366, MCA, is amended to read:

"15-70-366. Penalties. A distributor or other person who fails, neglects, or refuses to make and file the statements required by this part in the manner or within the time provided, who is delinquent in the payment of any ~~license~~ *gasoline or special fuel* tax imposed by this part, who makes any false statement with reference to the distributor's business, who makes any false statement on any claim for refund, or who violates any provision of this part shall, in addition to any other penalties imposed, be guilty of a misdemeanor and upon conviction shall be fined ~~in~~ an amount not to exceed $1,000 or be imprisoned in the county jail for not to exceed 6 months, or both."

Section 30. Section 15-70-503, MCA, is amended to read:

"15-70-503. Definitions. As used in this part, the definitions in ~~15-70-201~~ *15-70-301* and the following definitions apply:

(1) "Department" means the department of transportation.

(2) "Ethanol distributor" means any person who, for the purpose of making ethanol-blended gasoline, engages in the business of producing ethanol for sale, use, or distribution.

(3) "Ethanol-blended gasoline dealer" means any person who blends ethanol with gasoline to produce ethanol-blended gasoline for sale from a wholesale or retail outlet, for use, or for distribution in this state.

~~(4) "Export" means to transport out of Montana from any point of origin within Montana by any means other than in the fuel supply tank of a motor vehicle.~~"

Section 31. Section 15-70-521, MCA, is amended to read:

"15-70-521. Denaturing ethanol — refund authorized. An ethanol distributor who, for the purpose of denaturing ethanol distilled in Montana, purchases gasoline on which the Montana gasoline tax has been paid is entitled to a refund, computed as allowed in ~~15-70-221~~ *15-70-356*, of tax paid on the gasoline used."

Section 32. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of ethanol — rules. (1) (a) If the ethanol ~~was~~ *is* produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol ~~was~~ *is* produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under ~~15-70-204~~ *15-70-343*.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based ~~upon~~ *on* the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to ~~15-70-205~~ *15-70-344*.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

Section 33. Section 15-70-719, MCA, is amended to read:

"15-70-719. Warrant for distraint. If all or part of the tax imposed by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded after the lien is filed by the department. An action may not be maintained to enjoin the collection of all or any part of the ~~license~~ tax."

Section 34. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline ~~dealers' license~~ tax. (1) All money received in payment of ~~license taxes~~ *the gasoline tax* under ~~the Distributor's Gasoline License Tax Act~~ *15-70-343*, except those amounts paid out of the department's suspense account for gasoline tax refund, must be used and expended as provided in this section. The portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102. After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder is allocated as follows:

(a) 9/10 of 1% to the state park account;

(b) 15/28 of 1% to a snowmobile account in the state special revenue fund;

(c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund; ~~and~~

(d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301~~.~~*; and*

(e) ~~The remainder of the money must be used~~ *the remaining amount*:

(i) *for use* by the department on the highways in this state selected and designated by the commission;

(ii) for collection of the ~~license~~ *fuel* taxes; and

(iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state.

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23~~, U.S.C.,~~ *of the United States Code* and the rules by which it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds.

(b) Of the amounts deposited in the snowmobile account:

(i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws.

(ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816.

(c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state.

(6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles.

(b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state.

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 35. Section 60-3-202, MCA, is amended to read:

"60-3-202. Funding highway system maintenance. For the purpose of funding the increased cost of maintaining the state highway system as designated in 60-2-128, 1/4 cent per gallon of the special fuel tax collected under ~~15-70-321~~ *15-70-343* and 1/4 cent per gallon of the gasoline ~~license~~ tax collected under ~~15-70-204~~ *15-70-343* are allocated for highway maintenance."

Section 36. Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. Employees designated or appointed as peace officers under 61-10-154 or 61-12-201 may make arrests for violations of the following statutory provisions:

(1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;

(2) chapter 10 of this title;

(3) part 3, chapter 4, of this title;

(4) 15-24-201 through 15-24-205;

(5) Title 15, chapter 70, ~~parts 2 and~~ *part* 3;

(6) 61-10-154 and safety rules adopted under that section; *and*

(7) Title 69, chapter 12."

Section 37. Section 67-1-301, MCA, is amended to read:

"67-1-301. Money — receipt and disbursement. (1) All costs and expenses of administering this title, including the salaries of employees of the department engaged in functions pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title, must be paid out of the following revenue:

(a) all gifts and all legislative appropriations to the department for aeronautics; *and*

(b) all money received from any branch or department of the federal government or from other sources for the purposes of this title or for the furtherance of aeronautics generally in this state.

(2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

(3) (a) Except as provided in subsection (5), the following amounts must be deposited from the proceeds of the 4-cent-a-gallon tax imposed on aviation fuel by ~~15-70-204(1)(a)~~ *15-70-343(1)(c)*:

(i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 2 cents a gallon collected under ~~15-70-204(1)(a)~~ *15-70-343(1)(c)* for the sole purpose of carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 2 cents a gallon to provide refunds pursuant to ~~15-70-221(5)~~ *15-70-356(6)*, to provide grants to municipalities for airport development or improvement programs, and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.

(b) Money deposited in the account created in 67-1-306 may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) must be deposited in the account created in 67-1-306.

(c) Money deposited in the separate account established in subsection (3)(a)(ii) may, after refunds are provided pursuant to ~~15-70-221(5)~~ *15-70-356(6)* and with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(4) Except as provided in ~~15-70-221~~ *15-70-356*, the gasoline ~~license~~ tax imposed by the laws of this state on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

(5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under 14 CFR, part 121 or 135, 25% must be deposited in an account separate from the account established in subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports served by these air carriers."

Section 38. Section 75-11-302, MCA, is amended to read:

"75-11-302. Definitions. Except as provided in subsections (2), (14), and (25), the following definitions apply to this part:

(1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need for corrective action or compensation for third-party bodily injury or property damage.

(2) "Aviation gasoline" means aviation fuel as defined in ~~15-70-201~~ *15-70-301*. For the purposes of this chapter, aviation gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

(3) "Board" means the petroleum tank release compensation board established in 2-15-2108.

(4) "Bodily injury" means physical injury, sickness, or disease sustained by an individual, including death that results from the physical injury, sickness, or disease at any time.

(5) "Claim" means a written request prepared and submitted by an owner or operator or an agent of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum storage tank.

(6) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal, and other actions necessary to respond to a release.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Distributor" means a person who is licensed to sell gasoline *or special fuel*, as provided in ~~15-70-202~~ *15-70-341*, and who:

(a) in the state of Montana, engages in the business of producing, refining, manufacturing, or compounding gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution;

(b) imports gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution in this state;

(c) engages in wholesale distribution of gasoline, aviation gasoline, special fuel, or heating oil in this state;

(d) is an exporter;

(e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

(f) either blends gasoline with ethanol or blends heating oil with waste oil.

(9) "Eligible costs" means expenses reimbursable under 75-11-307.

(10) "Export" means to transport out of the state of Montana, by means other than in the fuel supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline terminal within the state of Montana.

(11) "Exporter" means a person who transports, by means other than in the fuel supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline terminal within the state of Montana to a destination outside the state of Montana for sale, use, or consumption beyond the boundaries of the state of Montana.

(12) "Fee" means the petroleum storage tank cleanup fee provided for in 75-11-314.

(13) "Fund" means the petroleum tank release cleanup fund established in 75-11-313.

(14) "Gasoline" means gasoline as defined in ~~15-70-201~~ *15-70-301*. For the purposes of this chapter, gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

(15) "Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(16) "Import" means to receive into a person's possession or custody first after its arrival and coming to rest at a destination within the state any gasoline, aviation gasoline, special fuel, or heating oil shipped or transported into this

state from a point of origin outside this state, other than in the fuel supply tank of a motor vehicle.

(17) "Operator" means a person in control of or having responsibility for the daily operation of a petroleum storage tank.

(18) (a) "Owner" means:

(i) a person that holds title to, controls, or possesses an interest in a petroleum storage tank; or

(ii) a person that owns the property on which a petroleum storage tank from which a release occurred was located.

(b) The term does not include a person that holds an interest in a storage tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

(19) "Person" means an individual, firm, trust, estate, partnership, company, association, joint-stock company, syndicate, consortium, commercial entity, corporation, or agency of state or local government.

(20) "Petroleum" or "petroleum products" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute) or motor fuel blend, such as ethanol-blended gasoline, and that is not augmented or compounded by more than a de minimis amount of another substance.

(21) "Petroleum storage tank" means a tank that contains or contained petroleum or petroleum products and that is:

(a) an underground storage tank as defined in 75-11-503;

(b) a storage tank that is situated in an underground area, such as a basement, cellar, mine, drift, shaft, or tunnel;

(c) an aboveground storage tank with a capacity *of* less than 30,000 gallons; or

(d) aboveground or underground pipes associated with tanks under subsections (21)(b) and (21)(c), except that pipelines regulated under the following laws are excluded:

(i) the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1671, et seq.;

(ii) the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. 2001, et seq.; and

(iii) state law comparable to the provisions of law referred to in subsections (21)(d)(i) and (21)(d)(ii), if the facility is intrastate.

(22) "Properly designed and installed double-walled tank system" means a petroleum storage tank and associated product piping that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that is capable of being monitored for leakage. The design and construction of these tank systems must meet any applicable standards of the department and the department of justice fire prevention and investigation bureau. The material used in construction must be compatible with the liquid to be stored in the system, and the system must be designed to prevent the release of any stored liquid.

(23) "Property damage" means:

(a) physical injury to tangible property, including loss of use of that property caused by the injury; or

(b) loss of use of tangible property that is not physically injured.

(24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum or petroleum products from a petroleum storage tank into ground water, surface water, surface soils, or subsurface soils.

(25) "Special fuel" means those combustible liquids commonly referred to as diesel fuel or another volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas. For the purposes of this chapter, special fuel does not include diesel fuel sold to a railroad or a federal defense fuel supply center."

Section 39. Section 75-11-314, MCA, is amended to read:

"75-11-314. Petroleum storage tank cleanup fee — collection — penalties — warrant for distraint — statute of limitations. (1) Except as provided in subsection (4), each distributor shall pay to the department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee has not been paid by any other distributor. The fee must equal:

(a) 0.75 cent for each gallon of gasoline;

(b) 0.75 cent for each gallon of aviation gasoline;

(c) 0.75 cent for each gallon of special fuel; ~~and~~ *or*

(d) 0.75 cent for each gallon of heating oil.

(2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the state must be included in the measure of a distributor's fee.

(3) Ethanol that is blended with gasoline to be sold as ethanol-blended gasoline is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds $10 million. Whenever the unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than $6 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds $10 million.

(5) The department of transportation shall collect the fee in the same manner as the ~~basic~~ gasoline ~~license~~ *tax and special fuel* tax under Title 15, chapter 70, part ~~2~~ *3*. The provisions of 15-70-103, 15-70-111, ~~15-70-202, 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232~~ *15-70-341, 15-70-344, 15-70-345, 15-70-351 through 15-70-355, 15-70-356(3), and 15-70-366* apply to the fee. The provisions of ~~15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224~~ *15-70-343, 15-70-348, 15-70-356(1), and 15-70-361* do not apply to the fee."

Section 40. Repealer. The following sections of the Montana Code Annotated are repealed:

15-70-201. Definitions.

15-70-202. License and security of gasoline distributors — denial or revocation of license.

15-70-204. Gasoline license tax — rate.

15-70-205. Distributor's statement and payment — confidentiality.

15-70-206. Recordkeeping requirements.

15-70-207. Invoice of distributors and aviation dealers.

15-70-208. Examination of records.
15-70-209. Information reports — confidentiality.
15-70-210. Tax penalty for delinquency.
15-70-211. Warrant for distraint.
15-70-212. Statute of limitations.
15-70-221. Refund or credit authorized.
15-70-222. Required records.
15-70-223. Estimate allowed for agricultural use — seller's signed statement acceptable on keylock or cardtrol purchases.
15-70-224. Determination of highway use.
15-70-225. Application for refund or credit — filing — correction by department.
15-70-226. Approval or rejection of claim.
15-70-232. Penalties.
15-70-233. Improperly imported fuel — seizure.
15-70-242. Civil penalty.
15-70-321. Tax on special fuel and volatile liquids.
15-70-324. Examination of records — enforcement of part.
15-70-372. Civil penalties.

Section 41. Directions to code commissioner. (1) The code commissioner is instructed to renumber sections currently in Title 15, chapter 70, parts 2 and 3, into a new part in Title 15, chapter 70.

(2) The code commissioner is instructed to change all internal references within and to the renumbered sections in the Montana Code Annotated, including within sections enacted or amended by the 2015 legislature, to reflect the new section numbers assigned pursuant to this section.

(3) Any section enacted by the 2015 legislature that is to be codified in Title 15, chapter 70, part 2 or 3, must be codified as an integral part of the new part, and the provisions of the new part apply to the enacted sections.

Approved April 10, 2015

CHAPTER NO. 221

[HB 168]

AN ACT CLARIFYING THE APPLICABILITY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION'S DEFINITION OF "COMBINED APPROPRIATION" FOR WATER RIGHT PERMIT EXCEPTIONS IN CERTAIN CIRCUMSTANCES AND PROVIDING RETROACTIVE APPLICABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Legislature, consistent with its constitutional duties, adopted the Montana Water Use Act in 1973, which recognizes existing water rights and provides for the orderly administration of new water right permits while protecting senior water right users; and

WHEREAS, the Legislature recognizes that a permit to appropriate water is not necessary in all circumstances and has created certain exceptions to the permit requirement; and

WHEREAS, the Legislature has provided that a permit is not required for an appropriation that is 35 gallons a minute or less and does not exceed 10 acre-feet a year unless the appropriation is determined to be a combined appropriation; and

WHEREAS, since 1993 the Department of Natural Resources and Conservation has defined the term "combined appropriation" as an appropriation of water from the same source aquifer by two or more ground water developments that are physically manifold into the same system; and

WHEREAS, water users in the state have relied upon the department's definition of combined appropriation for more than 20 years; and

WHEREAS, on October 17, 2014, the Montana First Judicial District Court in Clark Fork Coalition v. Tubbs, Cause No. BDV-2010-874, invalidated the Department's combined appropriation definition as being inconsistent with the Water Use Act; and

WHEREAS, substantial financial investment was made by persons on the basis of the 1993 definition of "combined appropriation" prior to the District Court's October 17, 2014, order; and

WHEREAS, the District Court ordered that the Department's rule defining "combined appropriation", in effect from 1987 to 1993, be reinstated; and

WHEREAS, it is the intent of the Legislature to ensure that the Department's 1993 definition of combined appropriation applies to all projects, developments, or subdivisions in existence or for which an application for review was pending on or before the District Court's October 17, 2014, ruling.

Be it enacted by the Legislature of the State of Montana:

Section 1. Wells exempt from permitting — definition of combined appropriation — retroactive applicability. For purposes of implementing the provisions of 85-2-306, the department of natural resources and conservation's definition of combined appropriation as an appropriation of water from the same source aquifer by two or more ground water developments that are physically manifold into the same system applies retroactively to any project, development, or subdivision in existence on or before October 17, 2014, and to any pending project, development, or subdivision for which the application and required fees were received by the department of environmental quality in accordance with 76-4-125 or by the local reviewing authority in accordance with 76-3-604(1)(a) on or before October 17, 2014.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 10, 2015

CHAPTER NO. 222

[HB 208]

AN ACT REVISING PAWNBROKER REGISTER REQUIREMENTS; ELIMINATING THE REQUIREMENT THAT THE REGISTER INCLUDE A RECORD OF THE SALE OF PAWNED ARTICLES; RESERVING TO PEACE OFFICERS THE RIGHT TO INSPECT THE REGISTER; AND AMENDING SECTION 31-1-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 31-1-402, MCA, is amended to read:

"31-1-402. Pawnbroker to keep register. (1) Every pawnbroker or junk dealer shall keep a register, in which must be entered a description of every article pawned to or purchased by the pawnbroker or junk dealer, with:

(a) the date of the pawning or purchasing;

(b) *the* date when the article must be redeemed;

(c) the name of the person ~~by whom the article was pawned or by whom purchased~~ *who pawned or sold the article*; and

(d) the amount loaned on or paid for the article.

~~(2) In case of the sale of any article pawned or pledged, the pawnbroker or junk dealer shall enter upon the register:~~

~~(a) the name of the purchaser;~~

~~(b) the time of the sale; and~~

~~(c) the price paid for the article.~~

~~(3)~~*(2)* The register must ~~always be open to~~ *be made available for* inspection and examination of any peace officer ~~or other persons~~."

Approved April 9, 2015

CHAPTER NO. 223

[HB 240]

AN ACT ALLOWING SURPLUS LINES INSURANCE PRODUCERS TO CHARGE A FLAT FEE IN CONNECTION WITH SURPLUS LINES INSURANCE TRANSACTIONS; AMENDING SECTIONS 33-2-311 AND 33-18-212, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Surplus lines insurance producer fee. (1) A surplus lines insurance producer may collect a flat fee per policy for business placed in the surplus lines insurance market. The fee may not exceed:

(a) $50 for a personal lines insurance policy; or

(b) $100 for a commercial lines insurance policy.

(2) The fees allowed under this section are not considered part of the premium charged to the insured and do not fall within the definition of premium provided in 33-15-102.

(3) The fees allowed under this section apply only to surplus lines insurance producers transacting surplus lines insurance business.

Section 2. Section 33-2-311, MCA, is amended to read:

"33-2-311. Tax on surplus lines insurance. (1) Except as provided in 33-2-323, when this state is the home state of the insured, the surplus lines insurance producer shall collect from the insured and pay to the commissioner a tax ~~upon~~ *on* premiums collected for surplus lines insurance transacted in this state. The amount of premiums collected and the tax rate must be computed in the same manner as provided in 33-2-705 as to premiums of authorized insurers, except that amounts collected from the insured specifically for applicable state and federal taxes~~, and~~ in excess of the premium otherwise required, *or fees imposed by the surplus lines insurance producer pursuant to [section 1],* are not considered to be part of the premium for the purposes of the computation. Upon filing of the tax and fee statement referred to in 33-2-310, the surplus lines insurance producer shall pay to the commissioner the amount

of tax owing as to surplus lines insurance business transacted by the surplus lines insurance producer during the preceding reporting period as well as the stamping fee on the premium payable by the insured regardless of whether the coverage includes risks or exposures partially located or to be performed in another state.

(2) Except as provided in 33-2-323, if this state is not the home state of the insured, the commissioner may not collect any tax or stamping fee regardless of whether the coverage includes risks or exposures partially located or to be performed in this state.

(3) The commissioner by rule shall establish procedures that provide for the collection and payment of premium taxes, as well as the reporting of premium tax and surplus lines insurance transaction data, in accordance with the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, Title V, subtitle B, of Public Law 111-203, for payment of taxes on this state's portion of risks covered by surplus lines insurance policies transacted outside this state that cover risks with exposures both in this state and outside this state."

Section 3. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums — improper charges for insurance. (1) A person may not willfully collect any sum as a premium or charge for insurance that is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this code.

(2) A person may not willfully collect as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to the insurance and, as specified in the policy, in accordance with the applicable classifications and rates filed with or approved by the commissioner; or in cases in which classifications, premiums, or rates are not required by this code to be filed or approved, the premiums and charges may not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision may not prohibit the charging and collection, by surplus lines insurance producers licensed under chapter 2, part 3, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. This provision may not prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(3) This section does not prohibit the charging and collection of a flat fee by a surplus lines insurance producer as specified in [section 1] for transaction of surplus lines insurance policies.

~~(3)~~*(4)* Each violation of this section is punishable under 33-1-104."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 2, part 3, and the provisions of Title 33, chapter 2, part 3, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2015.

Section 6. Applicability. [This act] applies to surplus lines insurance transactions on or after July 1, 2015.

Approved April 9, 2015

CHAPTER NO. 224

[HB 319]

AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 71-3-1111, MCA, is amended to read:

"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, *Optometrist, Naturopathic Physician, Podiatrist, Ambulance Service, Rehabilitation Facility, Long-term Care Facility,* and Outpatient Center for Surgical Services Lien Act"."

Section 2. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, hospitals, *optometrists, naturopathic physicians, podiatrists, ambulance services, rehabilitation facilities, long-term care facilities,* and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

(1) is injured through the fault or neglect of another; or

(2) is either insured or a beneficiary under insurance."

Section 3. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of certain health care providers and health care facilities. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

(i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility,* or ambulance service renders services or provides products for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides products; and

(iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or provided to a person injured through the fault or neglect of another.

(b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility,* psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services rendered or products provided on:

(i) any claim or cause of action that the injured person or the injured person's estate or successors may have for injury, disease, or death;

(ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or death; and

(iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

(i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility,* or ambulance service for the value of services rendered or products provided for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or products provided.

(b) The lien is on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility,* psychologist, licensed social worker, or licensed professional counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

Section 4. Section 71-3-1115, MCA, is amended to read:

"71-3-1115. Notice of lien. (1) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility,* or outpatient center for surgical services claiming a lien shall serve written notice upon the person and upon the insurer, if any, against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility,* or outpatient center for surgical services claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed."

Section 5. Section 71-3-1117, MCA, is amended to read:

"71-3-1117. Liability for failure to recognize lien. If any insurer or person, after receiving notice of a lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility,* psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient

center for surgical services has not been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility,* psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services for the reasonable value of the services."

Section 6. Section 71-3-1118, MCA, is amended to read:

"71-3-1118. Applicability. (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility,* psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

Approved April 9, 2015

CHAPTER NO. 225

[HB 324]

AN ACT ELIMINATING THE REQUIREMENT FOR INSURERS TO PROVIDE CERTIFICATION OF CREDITABLE COVERAGE; ALLOWING FOR CERTIFICATION TO BE ISSUED UPON REQUEST; AMENDING SECTION 33-22-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-22-142, MCA, is amended to read:

"33-22-142. Certification of creditable coverage. (1) *(a)* A group health plan and a health insurance issuer offering group *or individual* health insurance coverage shall issue the certification described in subsection (3)~~:~~

~~(a)~~ within 10 days after *a request by* an individual *who* ceases to be covered under the group *or individual* health plan. ~~or otherwise becomes covered under a COBRA continuation provision;~~

~~(b) not later than 10 days after the expiration of the notice period for cancellation for nonpayment of premium pursuant to the provisions of 33-22-121 and 33-22-530 or after termination of coverage for any other reason;~~

~~(c) in the case of an individual becoming covered under a COBRA continuation provision, at the time that the individual ceases to be covered under a COBRA continuation provision; and~~

~~(d)~~*(b)* ~~at the~~ *A* request ~~on behalf of an individual made not~~ *for the certification may be made no* later than 24 months after the date of termination of ~~the~~ coverage ~~described in subsection (1)(a) or (1)(c), whichever is later~~.

(2) The certification ~~pursuant to subsection (1)(a)~~ may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

(3) Certification is the written:

(a) certification of the period of creditable coverage of the individual under a group *or individual* health plan and the coverage under ~~the~~ *any applicable* COBRA continuation provision;

(b) certification of the waiting period, if any, and affiliation period, as defined in 33-31-102, if applicable, imposed with respect to the individual for any coverage under a group health plan;

(c) certification of the date of issuance of the certificate specified on the form; and

(d) notification to the individual of:

~~(i) the individual's option to apply to the Montana comprehensive health association, provided for in 33-22-1503, for an association portability plan, as defined in 33-22-1501, within 63 days of issuance of a certificate of creditable coverage;~~

~~(ii)~~*(i)* the individual's conversion rights;

~~(iii)~~*(ii)* the availability of COBRA continuation coverage; *and*

~~(iv) the telephone number and address of the Montana comprehensive health association; and~~

~~(v)~~*(iii)* other notification as determined necessary and in the form prescribed by rule by the commissioner.

(4) To the extent that medical care under a group health plan consists of group health insurance coverage, a group health plan satisfies the certification requirement of this section if the health insurance issuer offering the coverage provides the certification in accordance with this section.

(5) In the case of an election described in 33-22-141 by a group health plan or health insurance issuer, if the group health plan or health insurance issuer enrolls an individual for coverage under the group health plan and the individual provides a certification of coverage of the individual, the entity that issued the certification shall upon request of the group health plan or health insurance issuer promptly disclose information on coverage of classes and categories of health benefits available under the certified coverage. The entity may charge the requesting group health plan or health insurance issuer the reasonable cost of disclosing the information.

~~(6) This section applies to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the group market.~~

(6) At the time that an individual ceases to be covered by a group or individual health plan, the group health plan or health insurance issuer shall notify the individual that the individual may request the certification described in subsection (3) within the timeframes described in subsection (1)."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 10, 2015

CHAPTER NO. 226

[HB 353]

AN ACT REVISING LAWS RELATED TO A VACANCY ON THE PUBLIC SERVICE COMMISSION; REQUIRING THE GOVERNOR'S APPOINTEE TO FILL A VACANCY TO BE FROM THE SAME POLITICAL PARTY AND DISTRICT AS THE FORMER INCUMBENT; REQUIRING THE GOVERNOR TO APPOINT AN INDIVIDUAL FROM LISTS OF NOMINEES PROVIDED BY THE AFFECTED STATE PARTY CENTRAL COMMITTEE; PROVIDING TIMELINES FOR THE APPOINTMENT PROCESS; AMENDING SECTION 69-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-1-106, MCA, is amended to read:

"69-1-106. Vacancies. *(1)* Any vacancy occurring in the commission must be filled by appointment by the governor *as provided in this section*. The appointee shall hold office until the next general election and until a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the commission, there must be elected one member to fill out the unexpired term for which the vacancy exists.

(2) (a) When a vacancy occurs, if the former incumbent represented a party eligible for primary election under 13-10-601, the person appointed by the governor must be a member of the same political party and must be selected by the governor as provided in subsections (3) and (4).

(b) If the former incumbent was an independent or was originally nominated from a party that does not meet the requirements of 13-10-601, the governor shall appoint an individual to the vacant position within 45 days of receiving notification from the secretary of state of the vacancy.

(3) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the governor and, if the former incumbent represented a party eligible for primary election under 13-10-601, the state party that was represented by the former incumbent.

(4) (a) Upon receipt of a notification of a vacancy, the state party central committee notified pursuant to subsection (3) has 30 days to forward to the governor a list of three prospective appointees, each of whom must be a resident of the district represented by the former incumbent.

(b) If the governor does not select an appointee from the list forwarded pursuant to subsection (4)(a) within 15 days, the central committee shall, within 15 days, forward a second list of three prospective appointees, each of whom must be a resident of the district represented by the former incumbent. The second list may not contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor shall select an appointee from either list."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 9, 2015

CHAPTER NO. 227

[HB 363]

AN ACT REPEALING LAWS PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES OF DEBTORS WHO HAVE DEFAULTED ON STUDENT LOANS; AMENDING SECTION 20-26-1101, MCA; REPEALING

SECTIONS 20-26-1115, 20-26-1116, 20-26-1117, 20-26-1118, 20-26-1119, 20-26-1120, AND 20-26-1121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-26-1101, MCA, is amended to read:

"20-26-1101. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Agency" means the entity designated by the board to administer student loans.

(2) "Board" means the board of regents of higher education.

~~(3) "Delinquency" means the failure of a debtor to abide by the terms of payment on a promissory note or other obligation created in return for an educational student loan, which failure has existed for at least 6 months and has resulted in an arrearage equal to or greater than six monthly payments called for by the note or obligation.~~

~~(4)~~*(3)* "Eligible educational institution" means any institution approved by the United States secretary of education as eligible to participate in the student loan program pursuant to Title IV of the Higher Education Act of 1965, as amended.

~~(5)~~*(4)* "Eligible lender" means any lender as defined under Title IV of the Higher Education Act of 1965, as amended.

~~(6) "License" means a license, certificate, registration, or authorization issued by an agency of the state of Montana granting a person a right or privilege to engage in a business, occupation, or profession or any other privilege that is subject to suspension, revocation, forfeiture, or termination by the licensing authority prior to its date of expiration.~~

~~(7) "Licensing authority" means any department, division, board, agency, or instrumentality of this state that issues a license.~~

~~(8) "Order suspending a license" means an order issued by the agency to suspend a license. The order must contain the name of the debtor, the type of license, and the social security number of the debtor.~~

~~(9) "Payment plan" includes but is not limited to a plan approved by the agency that provides sufficient security to ensure compliance with Title IV of the Higher Education Act of 1965, as amended, and that incorporates voluntary or involuntary income withholding or a similar plan for periodic payment of the debt outstanding.~~

~~(10)~~*(5)* "Student loan program" means the program established by the board pursuant to this part."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

20-26-1115. Notice of intent to suspend license.

20-26-1116. Hearing — order suspending license.

20-26-1117. Suspension, denial, and nonrenewal of licenses.

20-26-1118. Nondisciplinary suspension for failure to pay on defaulted student loan.

20-26-1119. Stay of suspension of license — payment plan — hardship.

20-26-1120. Termination of order to suspend license.

20-26-1121. Fees.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 10, 2015

CHAPTER NO. 228

[HB 431]

AN ACT ALLOWING A PLAQUE, STATUE, OR OTHER ITEM OF TRIBUTE COMMEMORATING MONTANA'S FIRST TERRITORIAL GOVERNOR, SIDNEY EDGERTON, TO BE PLACED IN A STATE CAPITOL COMPLEX BUILDING OR ON THE GROUNDS OF THE CAPITOL COMPLEX; PROVIDING THAT THE MONTANA HISTORICAL SOCIETY PROCURE THE ITEM AND ADMINISTER FUNDS FOR THAT PURPOSE; REQUIRING PRIVATE FUNDING; AMENDING SECTION 2-17-808, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana owes its creation in large part to the undaunted efforts of Sidney Edgerton, a self-made man who rose from hardship to being appointed Chief Justice of the Idaho Territory by President Abraham Lincoln in 1863; and

WHEREAS, at the request of Bannack City citizens, Chief Justice Edgerton bravely defied highway robbers, such as the Plummer Gang, and traveled from Bannack City to Washington, D.C., with thousands of dollars' worth of gold nuggets sewn into his overcoat so that he could demonstrate the importance of establishing a new territory; and

WHEREAS, in Washington, D.C., his efforts, along with other prominent leaders from the territory, were instrumental in persuading Congress to pass the act that established the Montana Territory on May 26, 1864, and in establishing Montana's boundaries so that they encompassed the Bitterroot Mountains, the Flathead Valley, and Butte and the surrounding area; and

WHEREAS, President Lincoln appointed Sidney Edgerton as the first territorial governor of Montana and he served in the post without a territorial secretary or federal financing; and

WHEREAS, Sidney Edgerton financed and kept Montana's territorial government running by spending a considerable sum of money out of his own pocket to pay the government's expenses; and

WHEREAS, Sidney Edgerton was an outspoken critic of slavery and a staunch abolitionist, which was not a popular position with some of those elected to the first Montana Territorial Legislature; and

WHEREAS, the 1867 Territorial Legislature renamed Edgerton County as Lewis and Clark County; and

WHEREAS, because of political contention during and after the Civil War, Sidney Edgerton's place in history was never fully recognized so that now he has been referred to as "the forgotten man who gave Montana its shape"; and

WHEREAS, Montana owes a debt of gratitude to Governor Edgerton for using his own money in establishing Montana; and

WHEREAS, it is fitting that Sidney Edgerton's significant contributions toward establishing this great state of Montana be duly recognized.

Be it enacted by the Legislature of the State of Montana:

Section 1. Commemoration of Sidney Edgerton — special revenue account. (1) Subject to 2-17-807(4), a plaque, statue, or other item of tribute commemorating Sidney Edgerton, Montana's first territorial governor, may be

placed in a state capitol complex building or on the grounds of the state capitol complex subject to review by the capitol complex advisory council and the other provisions of Title 2, chapter 17, part 8.

(2) The cost for the procurement and installation of the plaque, statue, or other item of tribute must be paid by gifts, grants, and donations.

(3) There is a special revenue account to the credit of the Montana historical society for the purposes of this section. The Montana historical society shall oversee the procurement and installation of the plaque, statue, or other item of tribute and administer funds in the account.

Section 2. Section 2-17-808, MCA, is amended to read:

"2-17-808. Placement of certain busts, plaques, statues, memorials, monuments, and art displays. (1) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, in the capitol:

(a) the busts of Thomas J. Walsh, Burton K. Wheeler, and Joseph Dixon;

(b) the plaques commemorating Theodore Brantley, Fred Whiteside, the first Montana volunteers who fought in the Spanish-American War, the construction of the capitol from 1899 to 1902, the 1972 Montana constitutional convention, and the women legislators' centennial;

(c) the murals by Edgar S. Paxson, Ralph E. DeCamp, Charles M. Russell, Amedee Joullin, and F. Pedretti and sons;

(d) the statues of:

(i) Wilbur Fiske Sanders;

(ii) Jeannette Rankin; and

(iii) Mike and Maureen Mansfield;

(e) the Montana statehood centennial bell;

(f) the gallery of outstanding Montanans;

(g) the Montana constitutional exhibit;

(h) the biographical descriptions of Montana's governors, to be placed near the portraits of the governors;

(i) a plaque commemorating former representative Francis Bardanouve and lettering naming the first floor of the east wing of the capitol in honor of Francis Bardanouve; and

(j) a mural honoring the historical contributions of women as community builders.

(2) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, on the grounds of the capitol:

(a) the statues of Thomas Francis Meagher and Lady Liberty;

(b) the plaques commemorating:

(i) Donald Nutter;

(ii) President George H. W. Bush; and

(iii) American prisoners of war and personnel of the United States armed services missing in action;

(c) two benches with plaques recognizing contributors to the 1997-2000 capitol restoration, repair, and renovation project;

(d) the Montana centennial square; and

(e) the monument of the ten commandments.

(3) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, on the capitol complex grounds:

(a) the statue by Robert Scriver entitled "symbol of the pros";

(b) the monuments to the liberty bell, the veterans' and pioneer memorial building—landscape beautification project, Montana veterans, Pearl Harbor survivors, and the peace pole;

(c) the sculptures of the herd bull and the eagle;

(d) the plaques commemorating the Montana national guard and Lewis and Clark; and

(e) the arrastra.

(4) The following busts, plaques, statues, memorials, monuments, and art displays are to be placed for up to 50 years, subject to renewal, in state *capitol complex* buildings *or* on the *grounds of the state* capitol complex:

(a) the paintings of Dr. W. F. Cogswell and the paintings entitled "burning bush", "dryland farmer", "farm girl", "the river rat", "top of the world", "angus #68", "the source", "the Bozeman trail", and "the Mullan road";

(b) the art displays known as "Montana workers—mining, ranching, and building", "copper city rodeo", "dancing cascade", "save a piece of the sky", and "night light";

(c) the plaque commemorating Walt Sullivan, the plaque of the Sam W. Mitchell building, and the plaque commemorating the original headquarters of the Montana highway patrol;

(d) the busts of Lee Metcalf and Sam W. Mitchell;

(e) the plaque and Lou Peters award commemorating Karl Ohs; ~~and~~

(f) the plaque and memorial commemorating Joseph P. Mazurek*; and*

(g) a plaque, statue, or other item of tribute commemorating Montana's first territorial governor, Sidney Edgerton.

(5) The senate sculpture depicting the Lewis and Clark expedition is to be placed for up to 50 years, subject to renewal, on the west wall in the senate chambers.

(6) The council shall determine the specific placement of the items identified in subsections (1) through (4). (Subsection (1)(j) void on occurrence of contingency—sec. 3, Ch. 279, L. 2011.)"

Section 3. Contingent voidness. If the plaque, statue, or other item of tribute provided for in [section 1] is not installed by July 1, 2020, then [section 2] is void.

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved April 10, 2015

CHAPTER NO. 229

[HB 536]

AN ACT REVISING CAPTIVE INSURANCE LAWS TO APPLY TO ENTITIES FORMED OR OPERATED FOR THE BENEFIT OF A POLITICAL SUBDIVISION OF THE STATE; AMENDING SECTIONS 33-1-102 AND 33-28-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-1-102, MCA, is amended to read:

"33-1-102. (Temporary) Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs — service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) Except as provided in Title 33, chapter 40, part 1, this code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) Except as otherwise provided in Title 33, ~~chapter~~ *chapters* 22 *and 28*, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited

circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.

(12) Except as provided in Title 33, chapter 40, part 1, this code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) This code does not apply to guaranteed asset protection waivers that are governed by 30-14-151 through 30-14-157. (Terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)

33-1-102. (Effective January 1, 2018) Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs — service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) Except as otherwise provided in Title 33, ~~chapter~~ *chapters* 22 *and 28*, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.

(12) This code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) This code does not apply to guaranteed asset protection waivers that are governed by 30-14-151 through 30-14-157."

Section 2. Section 33-28-101, MCA, is amended to read:

"33-28-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured, or a member by virtue of common ownership, control, operation, or management.

(2) "Association" means any legal association of sole proprietorships or business entities that has been in continuous existence for at least 1 year unless

the 1-year requirement is waived by the commissioner and the members of which collectively, or the association itself:

(a) owns, controls, or holds with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;

(b) has complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(c) constitutes all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(3) "Association captive insurance company" means any company that insures risks of the members and the affiliated companies of members.

(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state.

(7) (a) "Business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity formed by an organizational document.

(b) The term does not include a sole proprietor.

(8) "Captive insurance company" means any pure captive insurance company, association captive insurance company, protected cell captive insurance company, incorporated cell captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company formed or licensed under the provisions of this chapter.

(9) "Captive reinsurance company" means a captive insurance company licensed in this state that reinsures the risk ceded by any other insurer.

(10) "Captive risk retention group" means a captive insurance risk retention group formed under the laws of this chapter and pursuant to Title 33, chapter 11.

(11) "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent.

(12) (a) "Controlled unaffiliated business entity" means a business entity or sole proprietorship:

(i) that is not in a parent's corporate system consisting of the parent and affiliated companies;

(ii) that has an existing, controlling contractual relationship with the parent or an affiliated company; and

(iii) whose risks are managed by a pure captive insurance company.

(b) The commissioner may promulgate rules that further define a controlled unaffiliated business entity.

(13) "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance that is in excess of a specified per-incident or aggregate limit established by the commissioner.

(14) "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state.

(15) "Incorporated cell" means a protected cell of an incorporated cell captive insurance company that is organized as a corporation or other legal entity separate from the incorporated cell captive insurance company.

(16) "Incorporated cell captive insurance company" means a protected cell captive insurance company that is established as a corporate or other legal entity separate from its incorporated cell that is organized as a separate legal entity.

(17) "Industrial insured" means an insured:

(a) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) who has at least 25 full-time employees.

(18) "Industrial insured captive insurance company" means any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(19) "Industrial insured group" means any group that meets either of the following:

(a) the group collectively:

(i) owns, controls, or holds with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(ii) has complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) the group is a captive risk retention group.

(20) "Member" means a sole proprietorship or business entity that belongs to an association.

(21) "Mutual insurer" means a business entity without capital stock and with a governing body elected by the policyholders.

(22) "Organizational document" means articles of incorporation, articles of organization, a partnership agreement, a subscribers' agreement, a charter, or any other document that establishes a business entity.

(23) "Parent" means a sole proprietorship, business entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding voting securities of a captive insurance company.

(24) "Participant" means a sole proprietorship or business entity and any affiliates that are insured by a protected cell captive insurance company in which the losses of the participant are limited through a participant contract to the participant's share of the assets of one or more protected cells identified in the participant contract.

(25) "Participant contract" means a contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each participant in the contract.

(26) "Protected cell" means a separate account established by a protected cell captive insurance company formed or licensed under the provisions of this chapter, in which an identified pool of assets and liabilities are segregated and insulated, as provided in this chapter, from the remainder of the protected cell captive insurance company's assets and liabilities in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive insurance company with respect to the participants as set forth in the participant contracts.

(27) "Protected cell assets" means all assets, contract rights, and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(28) "Protected cell captive insurance company" means any captive insurance company:

(a) in which the minimum capital and surplus required by applicable law are provided by one or more sponsors;

(b) that is formed or licensed under the provisions of this chapter;

(c) that insures the risks of separate participants through participant contracts; and

(d) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.

(29) "Protected cell liabilities" means all liabilities and other obligations identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(30) "Pure captive insurance company" means any company that insures risks of its parent and affiliated companies and controlled unaffiliated business entities.

(31) "Sole proprietorship" means an individual doing business in a noncorporate form.

(32) "Special purpose captive insurance company" means a captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section*, or is formed by, on behalf of, or for the benefit of a political subdivision of this state*.

(33) "Sponsor" means any entity that meets the requirements of 33-28-301 and 33-28-302 and is approved by the commissioner to provide all or part of the capital and surplus required by the applicable law and to organize and operate a protected cell captive insurance company."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 10, 2015

CHAPTER NO. 230

[HB 555]

AN ACT INCREASING THE ALLOWANCE THAT MAY BE PAID TO VOLUNTEER FIREFIGHTERS; AND AMENDING SECTION 19-17-110, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-17-110, MCA, is amended to read:

"19-17-110. Allowable payments to volunteer firefighters. (1) Allowable payments to volunteer firefighters include:

(a) payments of money reimbursed for documented expenses; and

(b) an allowance, including a stipend or per diem, that may not exceed ~~$300~~ *$3,000* in a calendar year.

(2) Compensation, as defined in 19-17-102, is not an allowable payment.

(3) Records of all payments and allowances must be maintained pursuant to 19-17-111."

Approved April 10, 2015

CHAPTER NO. 231

[HB 573]

AN ACT ALLOWING FOR AN ELECTRONIC ODOMETER STATEMENT WHEN TRANSFERRING VEHICLE OWNERSHIP; ELIMINATING THE REQUIREMENT THAT A MANUFACTURER'S CERTIFICATE OF ORIGIN BE SUBMITTED WITH AN APPLICATION FOR A VEHICLE TITLE; AND AMENDING SECTIONS 61-3-206, 61-3-216, 61-3-509, AND 61-4-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-206, MCA, is amended to read:

"61-3-206. Odometer disclosure requirements on transfer of vehicle — dealer to preserve record. (1) Except as provided in subsection ~~(3)~~ *(4)*, before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of title the odometer reading at the time of transfer or, if the certificate of title does not provide for the recording of the odometer reading, furnish to the purchaser a written statement ~~that is~~, *to be* signed by the seller, ~~who shall also print the seller's name on the written statement, and~~ that contains the following information:

(a) the odometer reading at the time of transfer;

(b) the date of transfer;

(c) the seller's name and current address;

(d) the purchaser's name and current address;

(e) the motor vehicle year, make, model, body style, and identification number;

(f) one of the following statements or certification:

(i) a certification by the seller that, to the best of the seller's knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;

(ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, the seller shall include a statement to that effect; or

(iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the motor vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(2) The purchaser shall acknowledge receipt of the disclosure statement by signing it ~~and printing the purchaser's name on the disclosure statement~~.

(3) For the purposes of this section, an odometer disclosure statement may be executed in electronic form and used with an electronic signature pursuant to Title 30, chapter 18, part 1.

~~(3)~~*(4)* The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1):

(a) a motor vehicle that is 10 years old or older;

(b) a vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, or sailboat that is not self-propelled;

(c) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless the motor vehicle has been used as a demonstrator;

(d) a motor vehicle having a gross weight rating of more than 16,000 pounds; or

(e) a motor vehicle sold directly by the manufacturer to an agency of the United States.

~~(4)~~*(5)* A dealer, an auto auction, or a wholesaler licensed under chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains."

Section 2. Section 61-3-216, MCA, is amended to read:

"61-3-216. Certificates of title — application — contents — issuance. (1) The owner of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle shall apply for a certificate of title on a form prescribed by the department or, if authorized by the department, in an electronic record provided by the department and made available to an authorized agent of the department or a county treasurer.

(2) The application for a certificate of title, upon completion, must include:

(a) the owner's name, Montana residence and, if different, mailing address, and customer identification number;

(b) a description of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, including, as available and pertinent to the vehicle:

(i) the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle make, model, manufacturer's designated model year of manufacture, vehicle identification number, and type of body and a description of motive power;

(ii) the odometer reading, if applicable, at the time of transfer of ownership;

(iii) the gross vehicle weight rating, gross vehicle weight, or shipping weight, if applicable, as determined by the manufacturer;

(iv) whether the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was new or used at the time of transfer; and

(v) for a trailer operating intrastate, its declared weight;

(c) the date on which the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was purchased by or was transferred to the applicant, the name and address of the person from whom the motor vehicle, trailer,

semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was acquired, and the names and addresses of any secured parties or lienholders for whom the applicant is acknowledging a voluntary security interest;

(d) any other information that the department requires to identify the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle and to enable the department to determine whether the owner is entitled to a certificate of title and to determine the existence of security interests in the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle;

(e) if applicable, an odometer statement containing the information required in 61-3-206 or, if the title does not contain a space for the information, a separate document approved by the department that provides the same information that is required in 61-3-206; and

(f) a section that gives the applicant the option to direct the department, upon examination and review of the records and completion of the application process, to:

(i) issue a certificate of title as soon as possible; or

(ii) update the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, issue a transaction summary receipt, and postpone the issuance of a certificate of a title until the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle owner submits a separate request for issuance of the certificate of title.

(3) ~~If the application is~~ *The department may require a manufacturer's certificate of origin to be submitted with an application* for a certificate of title to a new motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle~~, the application must be accompanied by a manufacturer's certificate of origin, properly assigned to the applicant~~.

(4) Except as provided in 61-3-208 or subsection (4)(b) of this section, if the application is for a certificate of title to a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, the application must be:

(a) accompanied by a certificate of title that is properly assigned by the prior owner to the applicant; or

(b) acknowledged by the prior owner if the prior owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was assigned to the applicant by means of a transfer on the electronic record of title entered by an authorized agent of the department or a county treasurer.

(5) If the application is for a certificate of title to a camper and if a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale or a conditional sales contract.

(6) If the application is for a certificate of title to a motorboat, a personal watercraft, a sailboat that is 12 feet in length or longer, or a snowmobile and a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale, an invoice, the current registration receipt for the motorboat, personal watercraft, sailboat, or

snowmobile, or a certificate of number showing the transfer of ownership, which may be used to show the transfer of ownership for a motorboat, personal watercraft, sailboat, or snowmobile from the immediate prior owner to the applicant."

Section 3. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of fees — responsibility for dishonored payments. (1) All registration fees imposed by 61-3-321 on light vehicles, motor homes, motorcycles, quadricycles, buses, motor vehicles having a manufacturer's rated capacity of more than 1 ton, and truck tractors for which a license is sought ~~and an original application for title that includes a manufacturer's statement of origin is made~~ must be remitted to the state as provided in 15-1-504 every 30 days. The payments must be deposited in the state general fund.

(2) (a) The department, its authorized agent, or a county treasurer is responsible for pursuing remedies available under 27-1-717 or otherwise provided by law when a check, draft, converted check, electronic funds transfer, or order for the payment of money is dishonored:

(i) for lack of funds or credit;

(ii) because the issuer does not have an account with the entity from which the funds are to be drawn; or

(iii) because the issuer stops payment with the intent to defraud the payee of the check or the payee named on the issued check, draft, converted check, electronic funds transfer, or order for the payment of money.

(b) Once fees have been remitted to the state under this section, adjustments may be made only for dishonored instruments if less than 1 year has elapsed from the date of remittance."

Section 4. Section 61-4-104, MCA, is amended to read:

"61-4-104. Record of purchase or sale. (1) (a) A dealer, wholesaler, or auto auction licensed under this part shall keep a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of the vehicles, together with the date of purchase, sale, or consignment and the name and address of:

(i) the person from whom the dealer or wholesaler acquired the vehicle's ownership or, if consigned, possessory interest in the vehicle;

(ii) the person to whom the dealer, wholesaler, or auto auction assigned the vehicle; and

(iii) a secured party with a perfected security interest in the vehicle to which the dealer's, wholesaler's, or auto auction's interest is subordinate, if any.

(b) The vehicle description must also include the vehicle identification number and engine number, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. In the case of a trailer, semitrailer, pole trailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the trailer, semitrailer, pole trailer, or special mobile equipment.

(2) The dealer, wholesaler, or auto auction must also have an assigned certificate of ownership or certificate of title from the owner of the motor vehicle, power sports vehicle, or trailer to the dealer, wholesaler, or auto auction from the time the motor vehicle is delivered to the dealer, wholesaler, or auto auction until it has been disposed of by the dealer, wholesaler, or auto auction. It is a violation of this part for a dealer, wholesaler, or auto auction to fail to take

assignment of all certificates of ownership, certificates of title, or manufacturer's certificates of origin for motor vehicles acquired by the licensee or to fail to assign the certificate of ownership, certificate of title, or manufacturer's certificate of origin for motor vehicles sold.

(3) All records required to be kept in accordance with this section, in addition to the required retention of odometer disclosure information under 61-3-206~~(4)~~*(5)*, must be physically located and maintained within the building referred to in 61-4-101. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter."

Approved April 10, 2015

CHAPTER NO. 232

[SB 140]

AN ACT REVISING THE METHODOLOGY FOR BUDGET COMPARISONS; PROVIDING A METHODOLOGY FOR EXPENDITURE COMPARISONS; AMENDING SECTIONS 17-7-150 AND 17-7-151, MCA; AND PROVIDING A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Expenditure comparison. (1) The expenditure comparison contrasts expenditures of state resources for general government operations over time.

(2) In preparing expenditure comparisons, the office of budget and program planning and the legislative fiscal division shall compare actual expenditures of state resources.

(3) Expenditure comparisons must include the same attributes and methods of calculation. An expenditure of state resources may be accounted for only once in a comparison. Expenditures that are not appropriated at the beginning of a biennium, such as budget amendments, supplemental appropriations, and emergency appropriations, must be included in expenditure comparisons but must be segregated.

Section 2. State contributions to local government — expenditure comparison. Expenditure comparisons of state resources to local government must include local assistance grants, city or county or city-county appropriations, federal revenue sharing funds, fund transfers to local governments, and other expenditures of state resources made by the state to local government entities, tribal entities, and school districts.

Section 3. Expenditures for district courts and office of public defender. Expenditure comparisons of state resources to local government must include state expenditures for the district courts and the office of state public defender but not for the office of appellate defender.

Section 4. Section 17-7-150, MCA, is amended to read:

"17-7-150. Definitions. As used in 17-7-151, the following definitions apply:

(1) "Current biennium" means the biennium during which the legislature is meeting in regular session.

(2) "Next biennium" means the biennium for which the regular session of the legislature makes appropriations.

(3) (a) "State resources" means:

(i) the general fund;

(ii) state special revenue funds other than private funds;

(iii) federal special revenue funds;

(iv) proprietary funds that require an appropriation;

~~(v) long-range building program appropriations; and~~

~~(vi) agency funds distributed to local governments.~~

(v) identified fund transfers to nonstate resources, not including the debt service fund type; and

(vi) the capital projects fund type.

(b) The term does not include:

(i) *the* debt service ~~funds~~ *fund type*;

~~(ii) capital project funds other than those appropriated;~~

~~(iii) internal service or proprietary funds that do not require an appropriation;~~

~~(iv)~~*(ii)* fund transfers *among state resources or from state resources to the debt service fund type*;

~~(v) enterprise funds;~~

~~(vi)~~*(iii)* ~~unrestricted or other university~~ *higher education* funds;

~~(vii) agency funds not distributed to local governments;~~

~~(viii) private purpose trust funds;~~

~~(ix)~~*(iv)* permanent funds;

~~(x) pension trust funds;~~

~~(xi)~~*(v)* noncash accounting entries; and

(vi) the fiduciary fund category.

~~(xii) private funds deposited in state special revenue accounts.~~"

Section 5. Section 17-7-151, MCA, is amended to read:

"17-7-151. Budget ~~performance —~~ comparison. (1) The ~~measure of~~ budget ~~performance is the total actual or estimated expenditure of state resources that reflects the cost of general government operations funded by taxes and fees~~ *comparison contrasts appropriations for general government operations in one biennium to those in a different biennium*.

(2) In preparing budget comparisons *for legislative sessions*, the office of budget and program planning and the legislative fiscal division shall compare ~~actual expenditures~~ *temporary and statutory appropriations* of state resources in ~~the first year of the current biennium plus appropriations of state resources in the second year of~~ the current biennium to *temporary and statutory* appropriations of state resources in the next biennium. ~~Anticipated reversions may be deducted from appropriated amounts per agreement between the two offices.~~

(3) ~~The legislative fiscal analyst and the budget director shall enter into an agreement on measurement standards for budget comparisons.~~ The office of budget and program planning and the legislative fiscal division shall ~~use the same methodology~~ *share the methods used* to estimate the amounts of statutory appropriations. If there are differences in estimates of revenue or amounts of statutory appropriations, the legislative fiscal analyst shall explain the differences as part of the independent analysis of the executive budget.

(4) Budget comparisons must include the same attributes and methods of calculation. Items that are not appropriated at the beginning of a biennium,

such as budget amendments, supplemental appropriations, and *reappropriations,* ~~emergency appropriations,~~ must be included in budget comparisons~~,~~ but must be segregated and indicated as noncomparable items."

Section 6. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [sections 1 through 3].

Section 7. Termination. [Section 3] terminates June 30, 2025.

Approved April 10, 2015

CHAPTER NO. 233

[SB 144]

AN ACT CONSOLIDATING TWO EXISTING PROCUREMENT ACCOUNTS INTO ONE STATE SPECIAL REVENUE ACCOUNT; REVISING ACCEPTABLE USE OF MONEY IN THE ACCOUNT; AMENDING SECTION 18-4-227, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-4-227, MCA, is amended to read:

"18-4-227. Procurement *and term contract* rebate account — funding — use. (1) There is an account in the state special revenue fund established by 17-2-102 ~~to be~~ known as the procurement *and term contract* rebate ~~special revenue~~ account.

(2) All rebates credited to the department from using state procurement cards and *term* contracts must be deposited in the ~~procurement rebate special revenue~~ account.

(3) The money in the account may be used only to:

(a) administer the state's procurement card programs; ~~and~~

(b) administer term contracts established by the department; and

~~(b)~~*(c)* reimburse applicable funds to the federal government.

(4) The unreserved, unexpended balance of the funds collected under this section must be deposited in the general fund by the close of the fiscal year."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 10, 2015

CHAPTER NO. 234

[SB 327]

AN ACT ESTABLISHING A DEADLINE FOR THE PUBLIC SERVICE COMMISSION TO ISSUE AN ORDER FOR RATE SCHEDULES FOR THE PURCHASE OF ELECTRICITY FROM A QUALIFYING SMALL POWER PRODUCTION FACILITY; AMENDING SECTION 69-3-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-3-603, MCA, is amended to read:

"69-3-603. (Temporary) Required sale of electricity under rates and conditions prescribed by commission. (1) Except as provided in subsection (3), if a qualifying small power production facility and a utility are unable to

mutually agree to a contract for the sale of electricity or a price for the electricity to be purchased by the utility, the commission shall require the utility to purchase the electricity under rates and conditions established under the provisions of subsection (2).

(2) *(a)* The commission shall determine the rates and conditions of the contract upon petition of a qualifying small power production facility or a utility or during a rate proceeding involving the review of rates paid by a utility for electricity purchased from a qualifying small power production facility. The commission shall render a decision within 180 days of receipt of the petition or*, in accordance with subsection (2)(b),* before the completion of the rate proceeding. The rates and conditions of the determination must be made according to the standards prescribed in 69-3-604.

(b) When a utility files a request to establish or revise rate schedules for qualifying small power production facilities pursuant to rules adopted by the commission, the commission shall issue an order within 270 days of receipt of the request.

(3) (a) If a qualifying small power production facility is eligible to sell electricity to a utility pursuant to a rate schedule approved by the commission, neither the qualifying small power production facility nor the utility may petition the commission in accordance with subsection (2)*(a)* to authorize a rate or term different from that in the rate schedule.

(b) A qualifying small power production facility may file a complaint pursuant to 69-3-321 if the facility feels the rate schedule approved by the commission is unreasonable. (Repealed on occurrence of contingency—secs. 1, 3, Ch. 284, L. 2003—see part compiler's comment.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to requests to establish or revise rate schedules filed on or after January 1, 2015.

Approved April 10, 2015

CHAPTER NO. 235

[HB 68]

AN ACT REVISING DEFINITIONS CONCERNING THE DUTY STATUS OF MONTANA NATIONAL GUARD MEMBERS; CLARIFYING WHAT DUTY STATUS IS COVERED BY THE PROVISIONS OF THE MONTANA NATIONAL GUARD CIVIL RELIEF ACT, THE MONTANA MILITARY SERVICE EMPLOYMENT RIGHTS ACT, AND THE UNIFORM PROBATE CODE; AMENDING SECTIONS 10-1-902, 10-1-1002, 10-1-1003, 10-1-1006, 10-1-1007, 10-1-1201, 19-2-707, 20-25-421, AND 72-5-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-902, MCA, is amended to read:

"10-1-902. Definitions. As used in this part, the following definitions apply:

(1) "Active duty" means at least 14 consecutive days of full-time state ~~active~~ *military* duty ~~ordered by the governor pursuant to Article VI, section 13, of the Montana constitution~~*, as defined in 10-1-1003,* or ~~of~~ full-time national guard duty, as defined in 32 U.S.C. 101.

(2) "Dependent" means the spouse or minor child of a service member or any other person legally dependent on the service member for support.

(3) "Military service" means active duty with a Montana army or air national guard military unit.

(4) "Service member" means any member of the Montana army or air national guard serving on active duty."

Section 2. Section 10-1-1002, MCA, is amended to read:

"10-1-1002. Purpose — legislative intent. The purpose of this part is to recognize the importance of the service performed by Montana national guard members and to protect the employment rights of national guard members who may be called to state ~~active~~ *military* duty ~~when there is a state emergency or disaster~~. The legislature also supports the efforts and sacrifices of the employers of Montana national guard members and intends that this part will provide a means for national guard members and employers to work cooperatively to resolve any workplace issues."

Section 3. Section 10-1-1003, MCA, is amended to read:

"10-1-1003. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) "Department" means the department of labor and industry established in 2-15-1701.

(2) "Elected official" means an official duly elected or appointed to any state or local judicial, legislative, or executive elective office of the state, a district, or a political subdivision of the state, including a school district or any other local district.

(3) (a) "Employer" means any public or private person or entity providing employment in Montana.

(b) The term does not include the United States.

(4) "Federally funded military duty" means duty, including training, performed pursuant to orders issued under Title 10 or *Title* 32 of the United States Code and the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the duty.

(5) "Member" means a member of the state's organized militia provided for in 10-1-103.

(6) "Military service" includes both federally funded military duty and state ~~active~~ *military* duty.

(7) (a) "State ~~active~~ *military* duty" means duty performed by a member ~~when a disaster or an emergency has been declared by the proper authority of the state~~ pursuant to Article VI, section 13, of the Montana constitution *or 10-1-505* ~~to include~~ *and* the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the ~~active~~ *state military* duty.

(b) The term does not include federally funded military duty."

Section 4. Section 10-1-1006, MCA, is amended to read:

"10-1-1006. Entitlement to leave of absence. (1) A member ordered to state ~~active~~ *military* duty is entitled to a leave of absence from the person's employment during the period of that state ~~active~~ *military* duty.

(2) A leave of absence for state ~~active~~ *military* duty may not be deducted from any sick leave, vacation leave, military leave, or other leave accrued by the member unless the member desires the deduction."

Section 5. Section 10-1-1007, MCA, is amended to read:

"10-1-1007. Right to return to employment without loss of benefits — exceptions — definition. (1) Subject to the provisions of this section, after a leave of absence for state ~~active~~ *military* duty, a member is entitled to return to employment with the same seniority, status, pay, health insurance, pension, and other benefits as the member would have accrued if the member had not been absent for the state ~~active~~ *military* duty.

(2) (a) If a member was a probationary employee when ordered to state ~~active~~ *military* duty, the employer may require the member to resume the member's probationary period from the date when the member's leave of absence for state ~~active~~ *military* duty began.

(b) An employer may decide whether or not to authorize the member to accrue sick leave, vacation leave, military leave, or other leave benefits during the member's leave of absence for state ~~active~~ *military* duty. However, the member may not be provided with lesser leave accrual benefits than are provided to all other employees of the employer in a similar but nonmilitary leave status.

(c) (i) An employer's health plan must provide that:

(A) a member may elect to not remain covered under the employer's health plan while the member is on state ~~active~~ *military* duty but that when the member returns, the member may resume coverage under the plan without the plan considering the employee to have incurred a break in service; and

(B) a member may elect to remain on the employer's health plan while the member is on state ~~active~~ *military* duty without being required to pay more than the regular employee share of the premium, except as provided in subsection (2)(c)(ii).

(ii) If a member's state ~~active~~ *military* duty qualifies the member for coverage under the state of Montana's health insurance plan as an employee of the department of military affairs, the employer's health plan may require the member to pay up to 102% of the full premium for continued coverage.

(iii) A health insurance plan covering an employee who is a member serving on state ~~active~~ *military* duty is not required to cover any illness or injury caused or aggravated by state ~~active~~ *military* duty.

(iv) If the member is a state employee prior to being ordered to state ~~active~~ *military* duty, the member does not become qualified as an employee of the department of military affairs for the purposes of health plan coverage until the member's state ~~active~~ *military* duty qualifies the member to be considered an employee of the department of military affairs pursuant to 2-18-701.

(d) An employer's pension plan must provide that when a member returns to employment from state ~~active~~ *military* duty:

(i) the member's period of state ~~active~~ *military* duty may constitute service with the employer or employers maintaining the plan for the purposes of determining the nonforfeitability of the member's accrued benefits and for the purposes of determining the accrual of benefits under the plan; and

(ii) if the member elects to receive credit and makes the contributions required to accrue the pension benefits that the member would have accrued if the member had not been absent for the state ~~active~~ *military* duty, then the employer shall pay the amount of the employer contribution that would have been made for the member if the member had not been absent.

(e) An employer is not obligated to allow the member to return to employment after the member's absence for state ~~active~~ *military* duty if:

(i) the member is no longer qualified to perform the duties of the position, subject to the provisions of 49-2-303 prohibiting employment discrimination because of a physical or mental disability;

(ii) the member's position was temporary and the temporary employment period has expired;

(iii) the member's request to return to employment was not done in a timely manner;

(iv) the employer's circumstances have changed so significantly that the member's continued employment with the employer cannot reasonably be expected; or

(v) the member's return to employment would cause the employer an undue hardship.

(3) (a) For the purposes of this section and except as provided in subsection (3)(b), "timely manner" means:

(i) for state ~~active~~ *military* duty of up to 30 days, the member returned to employment the next regular work shift following safe travel time plus 8 hours;

(ii) for state ~~active~~ *military* duty of 30 days to 180 days, the member returned to employment within 14 days of termination of state ~~active~~ *military* duty; and

(iii) for state ~~active~~ *military* duty of more than 180 days, the member returned to employment within 90 days of termination of the state ~~active~~ *military* duty.

(b) If there are extenuating circumstances that preclude the member from returning to employment within the time period provided in subsection (3)(a) through no fault of the member, then for the purposes of this section "timely manner" means within the time period specified by the adjutant general provided for in 2-15-1202."

Section 6. Section 10-1-1201, MCA, is amended to read:

"10-1-1201. Death while on state duty — death benefit payment — certification — rules. (1) The department of administration shall, upon certification by the department as provided in subsection (2), make a death benefit payment by state warrant in the amount of $50,000 to the beneficiary, as provided in subsection (3), of a member of the national guard who dies in the line of duty performed pursuant to state ~~active~~ *military* duty ~~or state duty for special work~~ orders.

(2) Upon the death of the member, the department shall certify to the department of administration:

(a) the name and other identifying information of the member;

(b) that the member died in the line of duty performed pursuant to Article VI, section 13, of the Montana constitution or while on state duty for special work as provided in 10-1-505(2);

(c) that, at the time of the death of the member, the member was being paid or was to be paid for the member's military service from state and not federal military funds; and

(d) the name and address of the beneficiary, as provided in subsection (3), to whom payment must be made.

(3) The department of administration shall pay the death benefit to the member's surviving spouse. If there is no surviving spouse, the department of administration shall pay the death benefit to the member's surviving children in equal shares. If there are no surviving children, the department of

administration shall pay the death benefit to the member's survivors pursuant to Title 72 as if the member had died intestate.

(4) The department and the department of administration may adopt rules to implement this section."

Section 7. Section 19-2-707, MCA, is amended to read:

"19-2-707. Qualified military service. Notwithstanding any other provision of state law governing a retirement system, contributions, benefits, and service credit for qualified military service are governed by section 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and Reemployment Rights Act of 1994. Contributions, benefits, and service credit for state ~~active~~ *military* duty are governed by the Montana Military Service Employment Rights Act provided in Title 10, chapter 1, part 10."

Section 8. Section 20-25-421, MCA, is amended to read:

"20-25-421. Charges for tuition — waivers. (1) The regents may prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

(2) The regents may:

(a) waive nonresident tuition for selected and approved nonresident students, not to exceed at any unit 2% of the full-time equivalent enrollment at that unit during the preceding year; however, when necessary, tuition may be waived in excess of 2% of unit enrollment for nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;

(b) waive resident tuition for students at least 62 years of age;

(c) waive tuition and fees for:

(i) persons who have one-fourth Indian blood or more or are enrolled members of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana and who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;

(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;

(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;

(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or

(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state ~~active~~ *military* duty;

(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person's choice and is the

surviving spouse or child of any of the following who were killed in the course and scope of employment:

(i) a paid or volunteer member of a municipal or rural fire department;

(ii) a law enforcement officer as defined in 7-32-201; or

(iii) a full-time highway patrol officer.

(3) If funds are available after the waivers provided for in subsection (2), the regents may waive tuition for up to 5,000 credits each academic year."

Section 9. Section 72-5-103, MCA, is amended to read:

"72-5-103. Delegation of powers by parent or guardian. (1) A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any powers regarding care, custody, or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.

(2) The 6-month limitation provided in subsection (1) does not apply to:

(a) a member of the Montana national guard who serves for more than 180 continuous days on duty pursuant to Title 10 or *Title* 32 of the United States Code or on state ~~active~~ *military* duty ~~pursuant to Article VI, section 13, of the Montana constitution~~ *as defined in 10-1-1003*;

(b) a member of the active duty military forces of the United States; or

(c) a member of the federal reserves who serves for more than 180 continuous days on duty pursuant to Title 10 of the United States Code.

(3) As used in this section, "federal reserves" means the United States air force reserve, army reserve, navy reserve, marine corps reserve, or coast guard reserve."

Section 10. Effective date. [This act] is effective on passage and approval.

Approved April 13, 2015

CHAPTER NO. 236

[HB 209]

AN ACT REVISING ELECTION LAWS RELATED TO THE DESIGNATION OF AN AGENT TO ASSIST AN ELECTOR WITH THE REGISTRATION AND VOTING PROCESS; PROVIDING THAT THE USE OF AN AGENT IS A REASONABLE ACCOMMODATION; AND AMENDING SECTION 13-1-116, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-116, MCA, is amended to read:

"13-1-116. Fingerprint, mark, or agent for disabled electors — rulemaking. (1) Except as otherwise specified by law, the provisions of this section apply.

(2) Whenever a signature is required by an elector under a provision of this title and the elector is unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to subsection (6), or an identifying mark or may request that an agent, election administrator, or election judge sign for the elector as provided in this section.

(3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the elector after reviewing and verifying the elector's identification.

(4) (a) An elector who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to this title and ~~for delivering the disabled elector's absentee ballot application to the county election administrator as provided in 13-13-213~~ *for providing any other assistance to the elector throughout the registration and voting process. The use of an agent is a reasonable accommodation under the provisions of 49-2-101(19)(b).*

(b) An application for designation of an agent by an elector under this section must be made on a form prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be met and the process that must be followed in order for a person to become a designated agent for a disabled elector pursuant to this subsection (4).

(5) If an agent, election administrator, or election judge signs or marks a document for an elector pursuant to this section, the agent, election administrator, or election judge shall initial the signature or mark.

(6) A disabled elector may not be required to provide a fingerprint."

Approved April 13, 2015

CHAPTER NO. 237

[HB 288]

AN ACT REPEALING THE DEPARTMENT OF ADMINISTRATION'S AUTHORITY TO TRANSFER INFORMATION TECHNOLOGY FUNDS, EQUIPMENT, FACILITIES, AND EMPLOYEES; AMENDING SECTIONS 2-17-513 AND 2-17-516, MCA; REPEALING SECTION 2-17-531, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-513, MCA, is amended to read:

"2-17-513. Duties of board. The board shall:

(1) provide a forum to:

(a) guide state agencies, the legislative branch, the judicial branch, and local governments in the development and deployment of intergovernmental information technology resources;

(b) share information among state agencies, local governments, and federal agencies regarding the development of information technology resources;

(2) advise the department in the development of cooperative contracts for the purchase of information technology resources;

(3) review and advise the department on:

(a) statewide information technology standards and policies;

(b) the state strategic information technology plan;

(c) major information technology budget requests;

(d) rates and other charges for services established by the department as provided in 2-17-512(1)(t);

(e) requests for exceptions as provided for in 2-17-515;

(f) notification of proposed exemptions by the university system and office of public instruction as provided for in 2-17-516;

(g) action taken by the department as provided in 2-17-514(1) for any activity that is not in compliance with this part; *and*

~~(h) transfer of information technology funds, resources, and employees as provided for in 2-17-531; and~~

~~(i)~~*(h)* the implementation of major information technology projects and advise the respective governing authority of any issue of concern to the board relating to implementation of the project;

(4) study state government's present and future information technology needs and advise the department on the use of emerging technology in state government; and

(5) request information and reports that it considers necessary from any entity using or having access to the statewide telecommunications network or central computer center."

Section 2. Section 2-17-516, MCA, is amended to read:

"2-17-516. Exemptions — university system — office of public instruction — national guard. (1) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the office of public instruction is exempt from 2-17-512(1)(k) and (1)(l).

(2) Unless the proposed activities would detrimentally affect the operation of the central computer center or the statewide telecommunications network, the university system is exempt from:

(a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;

(b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;

(c) the budget approval provisions of 2-17-512(1)(g); *and*

(d) the provisions of 2-17-512(1)(k) and (1)(l)~~; and~~

~~(e) the transfer provisions of 2-17-531~~.

(3) The department, upon notification of proposed activities by the university system or the office of public instruction, shall determine if the central computer center or the statewide telecommunications network would be detrimentally affected by the proposed activity.

(4) For purposes of this section, a proposed activity affects the operation of the central computer center or the statewide telecommunications network if it detrimentally affects the processing workload, reliability, cost of providing service, or support service requirements of the central computer center or the statewide telecommunications network.

(5) When reviewing proposed activities of the university system, the department shall consider and make reasonable allowances for the unique educational needs and characteristics and the welfare of the university system as determined by the board of regents.

(6) When reviewing proposed activities of the office of public instruction, the department shall consider and make reasonable allowances for the unique educational needs and characteristics of the office of public instruction to communicate and share data with school districts.

(7) Section 2-17-512(1)(u) may not be construed to prohibit the university system from accepting federal funds or gifts, grants, or donations related to information technology or telecommunications.

(8) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

2-17-531. Transfer of funds, equipment, facilities, and employees.

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved April 13, 2015

CHAPTER NO. 238

[HB 331]

AN ACT REVISING SIGNAGE AND GEOGRAPHICAL DESIGNATION LAWS; REQUIRING STATE LANDHOLDING AND LAND-MANAGING AGENCIES TO REMOVE THE WORDS "HALF-BREED" OR "BREED" FROM MAPS, SIGNS, OR MARKERS WHENEVER AGENCIES UPDATE MAPS OR REPLACE SIGNS AND MARKERS BECAUSE OF WEAR OR VANDALISM; REQUIRING THE DIRECTOR OF INDIAN AFFAIRS TO ENSURE THAT A LITTLE SHELL CHIPPEWA TRIBAL MEMBER IS APPOINTED TO THE ADVISORY GROUP ON NAMING SITES AND FEATURES; AMENDING SECTION 2-15-149, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-149, MCA, is amended to read:

"2-15-149. Naming of sites and geographic features — replacement of word "squaw", *"half-breed", or "breed"* — advisory group. (1) The state director of Indian affairs shall appoint an advisory group ~~that will~~ *, which must include a member of the Little Shell Chippewa tribe, to* serve on a volunteer basis to consult with local agencies, organizations, and individuals ~~in~~ *to reach a consensus on* developing names to replace present site or geographic names that contain the word "squaw"*, "half-breed", or "breed"*.

(2) Each agency of state government that owns or manages public land in the state shall identify any features or places under its jurisdiction that contain the word "squaw"*, "half-breed", or "breed"* and inform the advisory group of the agency's identification of features or places containing ~~that word~~ *any of those words*. The agency shall ensure that whenever the agency updates a map or replaces a sign, *an* interpretive marker, or any other marker because of wear or vandalism, the word "squaw"*, "half-breed", or "breed"* is removed and replaced with the name chosen by the advisory group.

(3) The advisory group shall:

(a) notify the U.S. forest service, the Montana departments of commerce and natural resources and conservation, and any other entity that compiles information for and develops maps for the state or for public use of the name change so that it may be reflected on subsequent editions of any maps or informational literature produced by those entities; and

(b) place a formal request with the United States board on geographic names to render a decision on the proposed name change so that the new name will be reflected on all United States board on geographic names maps."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 13, 2015

CHAPTER NO. 239

[HB 478]

AN ACT IMPLEMENTING SAFETY STANDARDS AND OVERSIGHT FOR COTTAGE FOOD OPERATIONS AND VARIOUS RETAIL FOOD ESTABLISHMENTS; PROVIDING CONDITIONS AND REGISTRATION REQUIREMENTS FOR COTTAGE FOOD OPERATIONS; CLARIFYING TERMS RELATING TO AND STATE REGULATION OF MOBILE FOOD ESTABLISHMENTS; PROVIDING FOR LOCAL BOARDS OF HEALTH TO OVERSEE AND ISSUE PERMITS FOR TEMPORARY FOOD ESTABLISHMENTS; CLARIFYING REGULATION OF COTTAGE FOOD OPERATIONS IN RELATION TO CERTAIN PRODUCTS; EXTENDING THE RULEMAKING AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 30-12-301, 50-31-103, 50-46-309, 50-50-101, 50-50-102, 50-50-103, 50-50-105, 50-50-109, 50-50-110, 50-50-201, 50-50-202, 50-50-203, 50-50-205, 50-50-208, 50-50-209, 50-50-211, 50-50-212, 50-50-213, 50-50-214, 50-50-215, 50-50-301, 50-50-302, 50-50-303, 50-50-305, 50-57-102, AND 81-22-208, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Conditions for cottage food operation exemption from licensure and routine facility inspection. (1) To acquire the status of not being a retail food establishment, a cottage food operation must meet the conditions in this section and shall register with a local health authority as provided in [section 2].

(2) A cottage food operation shall:

(a) follow department food standards as provided in rule, including applicable provisions implementing the 2013 United States food and drug administration food code;

(b) package cottage food products and label the cottage food products prior to sale, including on the label, at a minimum, the following:

(i) the name, address, city, state, and zip code of the cottage food operation;

(ii) the name of the cottage food product;

(iii) the ingredients of the cottage food product, in descending order of predominance by weight;

(iv) the net quantity, weight, count, or volume of the cottage food product;

(v) allergen labeling as specified by federal and state labeling requirements;

(vi) if a nutritional claim is made, an appropriate label if required by federal law; and

(vii) the following statement, printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background and is conspicuously placed on the principal label:

"Made in a home kitchen that is not subject to retail food establishment regulations or inspections."

(3) Providing cottage food products by consignment, including at a retail food establishment or through a wholesale establishment, is prohibited.

(4) Processing or packaging of cottage food products must be in the specific registered area of the domestic residence of the person processing or packaging the cottage food products.

(5) A cottage food operation may store cottage food products only in the registered area of the primary domestic residence used to produce the cottage

food product or temporarily in a motor vehicle used to transport cottage food products.

(6) (a) A cottage food operation is subject to local health authority or state enforcement action for violations of applicable department regulations.

(b) Cottage food products may be subject to other state or federal laws or regulations.

(7) A cottage food operation that meets the requirements in this section is not a retail food establishment or a wholesale food establishment and is not subject to licensure or inspection requirements under Title 50, chapter 57, or this chapter.

Section 2. Registration of cottage food operations — fee. (1) A person in charge of a cottage food operation shall register with the local health authority in the county in which the person's domestic residence is located and pay a registration fee as provided in subsection (6).

(2) A registrant shall provide:

(a) the name of the cottage food operation;

(b) the physical address of the domestic residence, as defined in 50-50-102, where the ingredients are manufactured or packaged into cottage food products and stored;

(c) a brief description of expected or known food ingredient sources;

(d) a complete list of the cottage food products manufactured or packaged; and

(e) a copy of each cottage food product label.

(3) A local health authority may request additional food safety information, if needed, and shall submit the list of additional information to the department. The additional requested information may not restrain trade through extensive registration requirements.

(4) The local health authority shall submit a copy of the approved registration to the department, which may maintain a listing of cottage food operations.

(5) If a local health authority refuses to register a cottage food operation, the provisions of 50-50-215 apply, including the requirement for notification of the cottage food operation in writing.

(6) The person in charge of the cottage food operation shall pay a nonrefundable registration fee to the county in which the cottage food operation is registered. The department shall set the registration fee by rule. The county shall deposit the registration fee with the county treasurer.

(7) A tribal government may pursue an agreement with the department pursuant to the authority provided in 50-1-106 to coordinate the registration of cottage food operations subject to tribal regulations. The agreement must include an appeals process if the registration is not approved.

(8) If there is not a cooperative agreement pursuant to subsection (7), a person in charge of a cottage food operation may register with the department.

Section 3. Temporary food establishment requirements. (1) Whether for-profit or operated by a nonprofit organization, a temporary food establishment:

(a) must be operated in compliance with applicable department rules; and

(b) shall obtain a permit from the local health regulatory authority on a form approved by the state.

(2) (a) A for-profit temporary food establishment shall pay a required permit fee to the local regulatory authority.

(b) A temporary food establishment operated by a nonprofit organization:

(i) is exempt from paying a permit fee; and

(ii) may sell or serve foods that meet the definition of cottage food products but is not required to register as a cottage food operation.

Section 4. Requirements for farmer's markets. (1) (a) A person selling food that is not potentially hazardous, including food listed in subsection (2), at a farmer's market is not a retail food establishment.

(b) A person selling food that is not potentially hazardous or otherwise listed in subsection (2) if selling only at a farmer's market is not required to register as a cottage food operation.

(2) Foods that are not potentially hazardous or are otherwise eligible to be sold at a farmer's market include:

(a) whole shell eggs if the whole shell eggs are clean, free of cracks, and stored in clean cartons at a temperature established by the department by rule;

(b) hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include fresh milk or cream;

(c) raw agricultural commodities; and

(d) food identified by the department by rule as not being a potentially hazardous food.

(3) A farmer's market authorized by a municipal or county authority shall keep registration records of all persons and organizations that serve or sell food exempt from licensure at the market, including food that does not meet the definition of potentially hazardous food.

(4) The registration records must include the name, address, and telephone number of the seller or server as well as the types of products sold or served and the date on which the products were sold or served.

(5) A farmer's market under this section shall make registration records available upon request to the local health authority.

(6) Food sold in a farmer's market must, if sold in a container, have a label similar to a label required of a cottage food product under [section 1].

Section 5. Section 30-12-301, MCA, is amended to read:

"30-12-301. Method of sale of commodities — general. (1) Commodities in liquid form ~~shall~~ *may* be sold only by liquid measure or by weight, and, except as otherwise provided in parts 1 through 5, commodities not in liquid form ~~shall~~ *may* be sold only by weight, by measure of length or area, or by count. Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if those methods give accurate information as to the quantity of commodity sold. This section does not apply to:

(a) commodities when sold for immediate consumption on the premises where sold;

(b) vegetables when sold by the head or bunch;

(c) commodities in containers standardized by a law of this state or by federal law;

(d) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;

(e) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure; ~~or~~

(f) unprocessed vegetable and animal fertilizer when sold by cubic measure*; or*

(g) cottage food products as defined in 50-50-102.

(2) The department may adopt reasonable rules necessary to ~~assure~~ *ensure* that amounts of commodity sold are determined in accordance with good commercial practice and are ~~so~~ determined and represented as to be accurate and informative to all parties at interest."

Section 6. Section 50-31-103, MCA, is amended to read:

"50-31-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advertisement" means representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(2) "Beef patty mix" means "hamburger" or "ground beef" to which have been added binders or extenders as those terms are understood by general custom and usage in the food industry.

(3) "Bottled water" means water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients, except that ~~it~~ *bottled water* may optionally contain safe and suitable antimicrobial agents.

(4) "Color" includes black, white, and intermediate grays.

(5) (a) "Color additive" means a material that:

(i) is a dye, pigment, or other substance made by a process of synthesis or similar artifice or that is extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic or to the human body is capable (alone or through reaction with another substance) of imparting color to the human body.

(b) The term does not include material that has been or is exempted under the federal act.

(6) (a) "Consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic as those terms are defined by this chapter or by the federal act and regulations pursuant to the federal act.

(b) The term does not include:

(i) any tobacco or tobacco product;

(ii) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.) or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151 through 157), commonly known as the Virus-Serum-Toxin Act;

(iii) a drug subject to 50-31-306(1)(m) or 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal act (21 U.S.C. 353(b)(1) and 356);

(iv) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201, et seq.); or

(v) a commodity subject to the Federal Seed Act (7 U.S.C. 1551 through 1610).

(7) "Contaminated with filth" applies to a food, drug, device, or cosmetic not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, foreign, or injurious contaminations.

(8) *(a)* "Cosmetic" means:

~~(a)~~*(i)* articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance; *and*

~~(b)~~*(ii)* articles intended for use as a component of these articles~~, except that the~~.

(b) The term does not include soap.

(9) "Counterfeit drug" means a drug, drug container, or drug label that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device or any likeness ~~thereof~~ *of an identifying mark, imprint, or device* of a drug manufacturer, processor, packer, or distributor other than the person who in fact manufactured, processed, packed, or distributed the drug and that falsely purports or is represented to be the product of or to have been packed or distributed by the other drug manufacturer, processor, packer, or distributor.

(10) "Department" means the department of public health and human services provided for in 2-15-2201.

(11) "Device" (except when used in 50-31-107(2), 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and 50-31-501(10)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or

(b) to affect the structure or function of the body of humans or other animals.

(12) "Dietary supplement" means a product, other than a tobacco product, that is intended to supplement the diet and that:

(a) is advertised only as a food supplement;

(b) bears or contains one or more of the following ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical substance;

(iv) an amino acid;

(v) a dietary substance used to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract, or combination of any ingredients described in subsections (12)(b)(i) through (12)(b)(iv);

(c) conforms to any additional provisions for the definition of dietary supplement under 21 U.S.C. 321.

(13) "Drug" means:

(a) articles recognized in the official United States Pharmacopoeia, official National Formulary, or a supplement to either of these;

(b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) articles (other than food) intended to affect the structure or function of the body of humans or other animals;

(d) articles intended for use as components of any article specified in subsection (13)(a), (13)(b), or (13)(c) but does not include devices or their components, parts, or accessories.

(14) "Federal act" means the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301, et seq.).

(15) "Food" means:

(a) articles used for food or drink for humans or other animals;

(b) chewing gum;

(c) articles used for components of these articles; and

(d) dietary supplements.

(16) (a) "Food additive" means a substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of food ~~(including~~. *The term includes* a substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and ~~including~~ a source of radiation intended for this use~~),~~ if the substance is not generally recognized~~,~~ among experts qualified by scientific training and experience to evaluate its safety~~,~~ as having been adequately shown through scientific procedures *to be safe under the conditions of its intended use.* ~~(or, in the case of~~ *Alternatively, for* a substance used in a food prior to January 1, 1958, *the determination of safety under the conditions of the substance's intended use may be* through either scientific procedures or experience based on common use in food~~) to be safe under the conditions of its intended use~~.

(b) The term does not include:

(i) a pesticide chemical in or on a raw agricultural commodity;

(ii) a pesticide chemical to the extent that ~~it~~ *the pesticide chemical* is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity;

(iii) a color additive;

(iv) a substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act, the Poultry Products Inspection Act (21 U.S.C. 451, et seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 603, et seq.).

(17) "Food service establishment" means a ~~restaurant, catering vehicle, vending machine, delicatessen, fast-food retailer, or any other place that serves food at retail to the public for consumption, either at or away from the point of service,~~ *a retail food establishment defined in 50-50-102* and any facility operated by a governmental entity where food is served.

(18) "Hamburger" or "ground beef" means ground fresh or frozen beef or a combination of both fresh and frozen beef, with or without the addition of suet, to which no water, binders, or extenders are added. There are four grades of hamburger or ground beef:

(a) "regular hamburger" or "regular ground beef" may have:

(i) a fat content no greater than the federal standard set forth in 9 CFR 319.15; and

(ii) a lean content of no less than 70%;

(b) "lean hamburger" or "lean ground beef" may have:

(i) a fat content no greater than 22%; and

(ii) a lean content of no less than 78%;

(c) "extra lean hamburger" or "extra lean ground beef" may have:

(i) a fat content no greater than 16%; and

(ii) a lean content of no less than 84%; and

(d) "super lean hamburger" or "super lean ground beef" may have:

(i) a fat content no greater than 12%; and

(ii) a lean content of no less than 88%.

(19) "Honey" means the nectar and saccharine plant exudations, gathered, modified, and stored in the comb by honey bees, that are levorotatory and that contain not more than 25% of water, not more than 0.25% of ash, and not more than 8% sucrose.

(20) "Label" means a display of written, printed, or graphic matter on the immediate container of an article. "Immediate container" does not include package liners.

(21) "Labeling" means labels and other written, printed, or graphic matter:

(a) on an article or its containers or wrappers;

(b) accompanying the article.

(22) "Menu" means a list presented to the patron that states the food items for sale in a food service establishment.

(23) "New drug" means a drug, the composition of which ~~is such that~~:

(a) ~~it~~ is not generally recognized~~,~~ among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs~~,~~ as safe and effective for use under the conditions prescribed, recommended, or suggested in ~~its~~ *the new drug's* labeling; or

(b) ~~the drug,~~ *has become recognized* as a result of investigations to determine ~~its~~ *the new drug's* safety and effectiveness for use under the conditions prescribed~~, has become so recognized~~ but ~~that~~ has not, other than in the investigations, been used to a material extent or for a material time under the conditions prescribed.

(24) "Official compendium" means the official United States Pharmacopoeia, official National Formulary, or a supplement to either of these.

(25) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers.

(b) The term does not include:

(i) shipping containers or wrappings used solely for the transportation of a consumer commodity in bulk or in quantity to manufacturers, packers, or processors or to wholesale or retail distributors;

(ii) shipping containers or outer wrappings used by retailers to ship or deliver a commodity to retail customers if the containers and wrappings bear no printed matter pertaining to a particular commodity.

(26) "Person" includes an individual, partnership, corporation, and association.

(27) "Pesticide chemical" means a substance that alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.), as amended, and that is used in the production, storage, or transportation of raw agricultural commodities.

(28) "Placard" means a nonpermanent sign used to display or describe food items for sale in a food service establishment or retail meat establishment.

(29) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(30) "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, freezing, or otherwise manufacturing a food or changing the physical characteristics of a food and the enclosure of the food in a package.

(31) "Raw agricultural commodity" ~~means food in its raw or natural state, including fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing~~ *has the meaning as provided in 50-50-102*.

(32) "Retail meat establishment" means a commercial establishment at which meat or meat products are displayed for sale or provision to the public, with or without charge.

(33) "Synthetically compounded" means a product formulated by a process that chemically changes a material or substance extracted from naturally occurring plant, animal, or mineral sources, except for microbiological processes."

Section 7. Section 50-46-309, MCA, is amended to read:

"50-46-309. Marijuana-infused products provider — requirements — allowable activities. (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a *retail* food ~~service~~ establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

Section 8. Section 50-50-101, MCA, is amended to read:

"50-50-101. Purpose of regulation. Regulation ~~of establishments defined in 50-50-102 is~~ required *under this chapter is intended* to prevent and eliminate conditions and practices ~~which~~ *that* endanger public health."

Section 9. Section 50-50-102, MCA, is amended to read:

"50-50-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

~~(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.~~

~~(2)~~*(1)* "Consumer" means a person who is a member of the public, takes possession of food, ~~is not operating an establishment,~~ and does not offer the food for resale.

(2) "Contract cook" means a person who specializes in a home food service and prepares food in an individual's domestic residence only for members of that household and house guests.

(3) "Cottage food operation" means a person who provides, manufactures, or packages cottage food products only in a kitchen in a registered area of a domestic residence and only for direct sale to a consumer in this state.

(4) "Cottage food products" means foods that are not potentially hazardous and are processed or packaged in a cottage food operation, including jams, jellies, dried fruit, dry mixes, and baked goods. Other similar foods that are not potentially hazardous may be defined by the department by rule.

~~(3)~~*(5)* "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4) (a) "Establishment" means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.~~

~~(b) The term does not include people who gather to exchange in nonmonetary transactions:~~

~~(i) high-acid canned goods, including but not limited to tomato sauce, fruits, pickles, or other vinegar-based foods;~~

~~(ii) home-brewed beer; or~~

~~(iii) dehydrated fruits and vegetables.~~

~~(5)~~*(6) "Direct sale" means a face-to-face purchase or exchange of the cottage food product between the manufacturer or packager of a cottage food product and a consumer or individual purchasing the cottage food product as a gift. The direct sale may not be by consignment or involve shipping or internet sales.*

(7) "Domestic residence" means a single-family house or a unit in a multiunit residential structure, whether rented, leased, or owned by the person in charge of the cottage food operation.

(8) "Farmer's market" means a farm premises, a ~~roadside~~ *food* stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority *under 7-21-3301*.

~~(6)~~*(9)* "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

~~(7) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.~~

~~(b) The term does not include:~~

~~(i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in their unbroken, original containers;~~

~~(ii) a private organization serving food only to its members;~~

~~(iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat for the owner of the carcass for consumption by the owner or the owner's family, pets, or nonpaying guests;~~

~~(iv) an establishment, as defined in 50-51-102, that serves food only to its registered guests and day visitors.~~

~~(8)~~*(10)* "Local board of health" means a county, city, city-county, or district board of health.

~~(9)~~*(11)* "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

~~(10)~~*(12)* "Meat market" means an operation and buildings or structures in connection with ~~it~~ *the meat market that are* used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(13) (a) "Mobile food establishment" means a retail food establishment that serves or sells food from a motor vehicle, a nonmotorized cart, a boat, or other movable vehicle that periodically or continuously changes location and requires a servicing area to accommodate the unit for cleaning, inspection, and maintenance.

(b) The term does not include:

(i) a motor vehicle used solely to transport or deliver food by a motorized carrier regulated by the state or the federal government;

(ii) a cottage food operation transport vehicle; or

(iii) a concession stand designed to operate as a temporary food establishment.

~~(11)~~*(14)* "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.

~~(12) "Perishable food dealer" means an operation that is in the business of purchasing and selling perishable food to the public at retail.~~

~~(13)~~*(15)* "Person" means ~~a person~~ *an individual*, *a* partnership, *a* corporation, *an* association, *a* cooperative group, the state or a political subdivision of the state, or other entity.

~~(14)~~*(16)* ~~(a)~~ "Potentially hazardous food" means ~~a~~ food that ~~is natural or synthetic and is in a form capable of supporting:~~

~~(i) the rapid and progressive growth of infectious or toxigenic~~ *requires time and temperature control for safety to limit toxin formation or the growth of pathogenic* microorganisms~~; or~~

~~(ii) the growth and toxin production of Clostridium botulinum.~~

~~(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts~~.

~~(c) The term does not include:~~

~~(i) an air-cooled, hard-boiled egg with intact shell;~~

~~(ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);~~

~~(iii) a food with a water activity (aw) value of 0.85 or less;~~

~~(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or~~

~~(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of Clostridium botulinum cannot occur.~~

~~(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.~~

~~(b) The term does not include:~~

~~(i) tomatoes or food products containing tomatoes; or~~

~~(ii) any other food substrate or product preserved by any method other than that described in subsection (15)(a).~~

~~(16)~~*(17) (a)* "Raw ~~and unprocessed farm products~~ *agricultural commodity*" means ~~fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not~~ *any food in its raw, unaltered state, including fruits, vegetables, raw honey, and grains. A raw agricultural commodity may be in a container if putting the commodity in a container does not alter the raw state.*

(b) The term does not include an agricultural commodity that has been altered by being:

(a) cooked;

(b) canned;

(c) preserved, except for drying;

(d) combined with other food products; or

(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(18) "Registered area" means the portion of a domestic residence that has been registered as provided in [section 2] and in which food ingredients intended for cottage food products are transported or stored or the domestic residence kitchen where cottage food products are processed, packaged, or stored.

~~(17)~~*(19)* "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

~~(18)~~*(20)* "Retail" means the provision of food directly to the consumer.

~~(19)~~*(21)* (a) "Retail food ~~manufacturing~~ establishment" means an operation ~~and the buildings or structures used to manufacture or prepare food for sale or human consumption at retail~~*, whether mobile or at a temporary or stationary facility or location, that meets one or more of the conditions in subsections (21)(a)(i) and (21)(a)(ii) and that may include a central processing facility that supplies a transportation vehicle or a vending location or satellite feeding location. A retail food establishment:*

(i) stores, processes, packages, serves, or vends food directly to the consumer or otherwise provides food for human consumption at a venue that may include:

(A) a restaurant;

(B) a market;

(C) a satellite or catered feeding location;

(D) a catering operation if the catering operation provides food directly to a consumer or to a conveyance used to transport people;

(E) a vending location;

(F) a conveyance used to transport people;

(G) an institution; or

(H) a food bank; and

(ii) relinquishes possession of food to a consumer directly or indirectly by using either a delivery service, as is done for grocery or restaurant orders, or a common carrier that provides deliveries.

(b) The term is not dependent on whether consumption is on or off the premises or whether there is a charge for food served to the public.

~~(b)~~*(c)* The term does not include:

(i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) slaughterhouses, meat packing plants, or meat depots; ~~or~~

(iii) ~~producers~~ *growers* or harvesters of raw ~~and unprocessed farm products~~ *agricultural commodities;*

(iv) a cottage food operation;

(v) a person that sells or serves only commercially prepackaged foods that are not potentially hazardous;

(vi) a food stand that offers raw agricultural commodities;

(vii) a wholesale food establishment, including those wholesale food establishments that are located on the same premises as a retail food establishment;

(viii) a kitchen in a domestic residence used for preparing food to sell or serve at a function by a nonprofit organization as provided in subsection (21)(c)(xiii);

(ix) custom meat and game animal processors that receive from an owner the remains of a carcass and process those remains for delivery to the owner for the exclusive use in the owner's household by the owner or members of the owner's household, including the owner's family pets, or of the owner's nonpaying guests or employees. For this exemption to apply, the carcass must be kept separate from other meat food products and parts that are to be prepared for sale.

(x) private, religious, fraternal, youth, patriotic, or civic organizations that serve or sell food to the public over no more than 4 days in a 12-month period;

(xi) a private organization that serves food only to its members and their guests;

(xii) a bed and breakfast, a hotel, a motel, a roominghouse, a guest ranch, an outfitting and guide facility, a boardinghouse, or a tourist home as defined in 50-51-102 that serves food only to registered guests and day visitors;

(xiii) a nonprofit organization that operates a temporary food establishment under a permit as provided in [section 3];

(xiv) persons who sell or serve at a farmer's market or a food stand whole shell eggs, hot coffee, hot tea, or other food not meeting the definition of potentially hazardous, as authorized by the appropriate municipal or county authority;

(xv) a day-care center under 52-2-721(1)(a) or day-care providers who are not subject to licensure under 52-2-721(1)(a);

(xvi) a private domestic residence that receives catered or home-delivered food;

(xvii) a contract cook; or

(xviii) a provider of free samples to the public as a marketing activity if the provider is a licensed wholesale food establishment, a cottage food operation, or a seller at a farmer's market.

(22) "Temporary food establishment" means a retail food establishment that in a licensing year either:

(a) operates at a fixed location for no more than 21 days in conjunction with a single event or celebration; or

(b) uses a fixed menu and operates within a single county at a recurring event or celebration for no more than 45 days.

~~(20)~~*(23)* (a) "Water hauler" means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches."

Section 10. Section 50-50-103, MCA, is amended to read:

"50-50-103. Department authorized to adopt rules — advisory council. (1) To protect public health, the department may adopt rules relating to*:*

(a) the operation of *retail food* establishments ~~defined in 50-50-102, including coverage of~~ *and cottage food operations. The rules may address sanitation standards related to* food, personnel, food equipment and utensils, ~~sanitary~~ *and* facilities and *may address other* controls, construction and fixtures, and housekeeping.

(b) licensure of retail food establishments; and

(c) registration for cottage food operations, including the fees to be charged for registration. The department shall specify in rule any fees for farmer's markets and cottage food operations that may be imposed by a regulatory authority.

(2) The department may adopt rules regarding permitting fees, statewide standards, plans to be provided by mobile food establishments as part of a mobile food establishment's licensing requirements, and an appeals process at the state and local levels.

~~(2)~~*(3)* ~~(a)~~ The department and local *boards of* health ~~authorities~~ may not adopt rules ~~prohibiting~~ *or ordinances, respectively, that prohibit* the sale of ~~baked goods and preserves~~ *cottage food products* ~~by nonprofit organizations or by persons selling baked goods or preserves at farmer's markets or exclusively for a charitable community purpose~~.

~~(b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.~~

~~(3)~~*(4)* (a) The department shall establish a food safety task force or advisory council to assist in the development of administrative rules or to review any proposed legislation related to the provisions of this chapter.

(b) The task force or advisory council must be composed of equal numbers of representatives of the ~~food establishments and representatives of state and local government~~ *departments of public health and human services, agriculture, and livestock and of registered sanitarians from local regulatory authorities and no more than six members of the public. Each department head shall appoint two of the public members and confer with other department heads to provide geographic representation. Each public member must be an owner or employee of a licensed retail food establishment or a representative of the food industry*.

(c) The department shall present administrative rules and any legislation to be proposed by the department to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation

related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council."

Section 11. Section 50-50-105, MCA, is amended to read:

"50-50-105. Diseased person not to handle food. A person who has a communicable disease may not work in any *retail food* establishment or in the handling or processing of food *served to the public until a local health officer has determined that the person is free of the infectious agent or unlikely to transmit the infectious agent because of the nature of the person's work*."

Section 12. Section 50-50-109, MCA, is amended to read:

"50-50-109. Civil penalties — injunctions not barred. (1) ~~An~~ *A retail food* establishment *or a cottage food operation* that violates this chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to exceed $500.

(2) Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the department pursuant to this chapter."

Section 13. Section 50-50-110, MCA, is amended to read:

"50-50-110. Costs and expenses — recovery by department or county. In a civil action initiated by the regulatory authority under this chapter, the court may, by petition of the regulatory authority, order ~~an~~ *a retail food* establishment *or a cottage food operation* that is found in violation of this chapter or rules adopted under this chapter to pay the costs of investigations and any other expenses incurred in enforcing the provisions of this chapter in the case of a willful violation. These costs are limited to the direct costs of investigations and other expenses."

Section 14. Section 50-50-201, MCA, is amended to read:

"50-50-201. License*, permit* required. (1) *(a)* Except as provided in 50-50-202 *and subsection (1)(b)(i) of this section*, a person operating ~~an~~ *a retail food* establishment shall procure an annual license from the department.

(b) (i) A temporary food establishment described in [section 3(2)(a)] shall obtain a permit and pay a permit fee to the local regulatory authority in the county where the temporary food establishment is operated.

(ii) For a temporary food establishment described under 50-50-102(22)(b), each time a temporary food establishment alters its menu substantially by food type and means of production, a separate permit must be obtained and a separate permit fee paid.

(2) A separate license is required for each *retail food* establishment, but if more than one type of *retail food* establishment is operated on the same premises and under the same management, only one license is required.

(3) Only one *retail food establishment* license is required for a person owning and operating one or more vending machines.

(4) *(a)* ~~A~~ *Except as provided in subsection (4)(b), a retail food establishment* license issued by the department is not valid unless signed in accordance with 50-50-214.

(b) A temporary food establishment permit must be signed by the local health officer or the health officer's designee to be valid.

(5) A tribal government may pursue an agreement with the department pursuant to the authority provided in 50-1-106 to coordinate the licensing of a

mobile retail food establishment subject to tribal regulations. The agreement must include an appeals process if the license is not validated.

(6) If there is not a cooperative agreement pursuant to subsection (5), the department may issue a license to a person operating a mobile retail food establishment."

Section 15. Section 50-50-202, MCA, is amended to read:

"50-50-202. ~~Establishments exempt~~ *Exemptions* from license requirement — ~~farmer's market records.~~ (1) ~~Establishments~~ *A retail food establishment* owned or operated by the state or a political subdivision of the state*, if* that ~~employ~~ *political subdivision employs* a full-time sanitarian ~~are~~*, is* exempt from licensure *under this chapter* but shall comply with the requirements of this chapter and rules adopted by the department under this chapter. *A retail food establishment under this subsection may be operated by but is not limited to a county jail, a local government-owned health care facility, a school, a state prison, or a state university.*

(2) A person who exchanges foods in a nonmonetary transaction is exempt from permitting, licensure, and registration.

~~(2) (a) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection:~~

~~(i) must be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; and~~

~~(ii) prior to each operation, shall register with the local health officer or sanitarian on forms provided by the department.~~

~~(b) Nonprofit organizations or persons selling baked goods or preserves exclusively for a charitable community purpose are exempt from registration if they notify the local health officer or sanitarian, by phone or in person, before the event. The notification required is limited to the date and time of the event, items planned to be sold, and an estimate of the number of people expected to be served at the event.~~

~~(3) (a) (i) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products or whole shell eggs at a farmer's market.~~

~~(ii) Whole shell eggs sold at a farmer's market by a farm owner or operator must:~~

~~(A) be clean, free of cracks, and stored in clean cartons;~~

~~(B) be kept at a temperature established by the department; and~~

~~(C) carry a label indicating the name and address of the farm owner or operator selling the eggs.~~

~~(b) A license is not required of a person:~~

~~(i) selling or offering hot coffee or hot tea at a farmer's market; or~~

~~(ii) selling baked goods or preserves at a farmer's market or exclusively for a charitable community purpose.~~

~~(c) Coffee or tea exempted under this subsection (3) may not be prepared or served with fresh milk or cream.~~

~~(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.~~

~~(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.~~

~~(c) The registration records must be made available to the local health officer or the officer's agent.~~"

Section 16. Section 50-50-203, MCA, is amended to read:

"50-50-203. Application for license, *permit.* *(1)* ~~An~~ *Except as provided in subsection (2), an* application for a *retail food establishment* license ~~is~~ *must be:*

(a) made to the department on forms and ~~contains~~ *contain* information required by the department*;* or ~~is~~

(b) filed using an application for a license that is in compliance with rules established by the board of review established in 30-16-302.

(2) An application for a temporary food establishment permit must be made to the local regulatory authority on a state-approved form. If a local board of review exists, the local board of review shall work with the state to provide a permit application under this subsection similar to the state-approved form, and the temporary food establishment may use the local board of review permit application."

Section 17. Section 50-50-205, MCA, is amended to read:

"50-50-205. License fee — late fee — preemption of local authority — exception. (1) (a) ~~The~~ *Except as provided in subsection (6) or (7), the* department shall collect for each license issued or renewed a fee as provided in subsection (1)(b). Of the fees collected under this section, 90% must be deposited into the local board inspection fund account created in 50-2-108, 5% into the general fund, and 5% into the account provided for in 50-50-216.

(b) ~~License~~ *The department shall set the* fees ~~are:~~

~~(i) $85 for each license issued to an establishment that does not have more than two employees working at any one time; and~~

~~(ii) $115 for establishments not referred to in subsection (1)(b)(i)~~ *by rule according to retail food establishment complexity*.

(2) (a) In addition to the license fee required under subsection (1), the department shall collect a late fee of $25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates ~~an~~ *a retail food* establishment governed by this part in the next licensing year.

(b) The late fee must be deposited in the account provided for in 50-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two ~~visits to~~ *inspections of* the *retail food* establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-108.

(5) The department shall collect a fee as provided in rule for each mobile food establishment plan submitted to the department for review.

(6) (a) A local health authority shall collect a fee, as provided in subsection (6)(b), for a permit issued for a temporary food establishment required to register under [section 3].

(b) A fee charged to a temporary food establishment may not exceed the amount charged to a retail food establishment as provided in subsection (1).

(c) The local regulatory authority shall use the revenue from the fee collected under this subsection (6) to defray costs associated with issuing a temporary food establishment permit and the costs of inspections required under this chapter.

(7) A fee may not be charged a person who sells or serves whole shell eggs at a farmer's market if the whole shell eggs are clean, free of cracks, and stored in clean cartons that are labeled in accordance with department rules and kept at a temperature established by the department by rule."

Section 18. Section 50-50-208, MCA, is amended to read:

"**50-50-208. Local board to report number of licensees to department.** Before June 1 of each year, the local board of health shall submit to the department a list of the *licensed retail food* establishments*, excluding temporary food establishments,* in each jurisdiction ~~that are licensed under this chapter~~. *The local board of health also shall submit to the department a list of cottage food operations that have registered as provided in [section 2].*"

Section 19. Section 50-50-209, MCA, is amended to read:

"**50-50-209. Cancellation of license.** *(1)* ~~The~~ *Except as provided in subsection (2), the* department may cancel *the license of* a *retail food establishment* ~~license~~ if ~~it~~ *the department* finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.

(2) A local regulatory authority may cancel a temporary food establishment permit if the local regulatory authority finds after proper investigation that the permitholder has:

(a) violated the provisions of this chapter or a rule promulgated under this chapter; and

(b) failed or refused to remedy or correct a violation that was the subject of the investigation."

Section 20. Section 50-50-211, MCA, is amended to read:

"**50-50-211. Notice and hearing required.** *(1)* ~~A~~ *The department may not deny or cancel the license of a retail food establishment* ~~license may not be denied or canceled by the department~~ without ~~delivery~~ *delivering* to the applicant or licensee ~~of~~ a written statement of the grounds for cancellation or denial or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. ~~In such case,~~ *To request a hearing,* the licensee ~~must~~ *shall* make a written request to the department ~~for a hearing~~ within 10 days after notice of the grounds or charges has been received.

(2) A local regulatory authority may not deny or cancel a temporary food establishment permit without delivering to the applicant or permitholder a written statement of the grounds for cancellation or denial or the charge involved and an opportunity to answer at a hearing before the local board of health to show cause, if any, why the permit should not be denied or canceled. To request a hearing, the permitholder shall make a written request to the local board of health within 10 days after notice of the grounds or charges has been received. This subsection does not prohibit the cancellation of a permit in the event of an immediate threat to the public health. The permitholder retains the right of appeal."

Section 21. Section 50-50-212, MCA, is amended to read:

"50-50-212. Cancellation of license *or permit* for multiple-type establishment. When a multiple-type *retail food* establishment is licensed by the department, the denial or cancellation of the license may affect the entire establishment or only a portion ~~of it~~ as determined by the department. A multiple-type *retail food* establishment*, including a mobile food establishment,* includes an establishment authorized by 50-50-201(2)."

Section 22. Section 50-50-213, MCA, is amended to read:

"50-50-213. Return of license *or permit* for alteration or destruction. On cancellation of *the license of* a *retail food establishment* ~~license~~ or the right to operate one or more of the multiple-type *retail food* establishments under the same license, the license certificate ~~shall~~ *must* be returned to the department for destruction or deletion of types of establishment as the department may direct in its notice of cancellation."

Section 23. Section 50-50-214, MCA, is amended to read:

"50-50-214. Notification of and validation by local health officer. (1) *(a)* A *retail food establishment* license issued by the department under this chapter is not valid until signed by the local health officer in the county where the *retail food* establishment is located or until the license is otherwise validated by the local health officer and is in accordance with rules established by the board of review established in 30-16-302.

~~(2)~~*(b)* The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a *retail food establishment* license ~~under this chapter~~, make a final decision on whether the *retail food establishment* license will be validated.

~~(3)~~*(c)* Failure of the local health officer to validate the *retail food establishment* license within 15 days after its receipt is a refusal.

(2) A temporary food establishment permit issued by the local regulatory authority under this chapter must be signed and validated by the local health officer in the county where the temporary food establishment is to operate. If a local board of review exists, the local health officer may validate the permit in accordance with regulations established by the local board of review."

Section 24. Section 50-50-215, MCA, is amended to read:

"50-50-215. Refusal by local health officer — appeal to board. (1) *(a)* The local health officer may refuse to validate a license issued under this chapter only upon a finding that the requirements of this chapter and any rules implementing ~~it~~ *this chapter* are not satisfied. If the local health officer refuses to validate the license, the officer shall notify the applicant and the department in writing stating the officer's reasons.

(b) If a local health officer does not approve a registration of a cottage food operator, as provided in [section 2], or a temporary food establishment permit, as provided in [section 3], the officer shall notify the applicant in writing stating the officer's reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer ~~not to validate a license~~ *as provided in subsection (1)* may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision.

(3) The hearing before the local board of health must be held pursuant to the contested case provisions of the Montana Administrative Procedure Act."

Section 25. Section 50-50-301, MCA, is amended to read:

"50-50-301. Health officers and sanitarians to make investigations and inspections — training requirements. (1) State and local health officers, sanitarians-in-training, and registered sanitarians shall make investigations and inspections of *retail food* establishments once a year and make reports to the department as required under rules adopted by the department. An inspection may be conducted more often than once a year.

(2) A person conducting an inspection must be certified and have completed a food safety training program, such as the program administered by the national restaurant association educational foundation or its equivalent.

(3) (a) A cottage food operation is not subject to inspection under this section unless the state or local health officer is investigating a complaint based on an illness or an outbreak suspected to be directly related to cottage food products.

(b) A cottage food operation may request an inspection and pay the appropriate costs for that inspection on a voluntary basis."

Section 26. Section 50-50-302, MCA, is amended to read:

"50-50-302. Health officers and sanitarians to have free access. *(1)* State and local health officers, sanitarians-in-training, and sanitarians must be provided free access to *retail food* establishments *licensed or permitted under this chapter* at all reasonable hours for the purpose of conducting investigations and inspections as required under this chapter.

(2) For the purpose of conducting investigations regarding complaints, illness, or outbreaks, state and local health officers, sanitarians-in-training, and sanitarians must be provided free access at all reasonable hours to cottage food operations if a complaint, illness, or outbreak is suspected or is directly related to the cottage food operation's cottage food products."

Section 27. Section 50-50-303, MCA, is amended to read:

"50-50-303. Licensee *or registrant* to furnish food samples. ~~Persons licensed~~ *A licensee or a registrant* under *Title 50, chapter 50,* part 2*,* shall furnish food samples for analysis as required by rules adopted by the department."

Section 28. Section 50-50-305, MCA, is amended to read:

"50-50-305. Department to pay local board for inspections and enforcement. (1) ~~Before~~ *Subject to the provisions of subsection (2), before* June 30 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106, or 50-2-107, an amount from the local board inspection fund account created in 50-2-108 that must be used only for the purpose of inspecting *retail food establishments, including mobile food* establishments*,* licensed under this chapter and enforcing the provisions of this chapter~~; provided, however, that:~~.

~~(a)~~*(2) (a) The provisions of subsection (1) apply only if* there is a functioning local board of health~~;~~ and

~~(b)~~ the local board of health, local health officers, sanitarians-in-training, and registered sanitarians~~:~~ *meet the requirements listed in subsection (2)(b).*

~~(i)~~*(b) To be eligible under subsection (1), the entities listed in subsection (2)(a) shall:*

(i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted ~~under it~~ *pursuant to this chapter*; and

~~(ii)~~*(ii)* meet minimum program performance standards as established under rules adopted by the department.

~~(2)~~*(3)* The funds received by the local board of health pursuant to subsection (1) must be deposited with the appropriate local fiscal authority and must be

used to supplement, but not supplant, other funds received by the local board of health that in the absence of funding received under subsection (1) would be made available for the same purpose.

~~(3)~~*(4)* Funds in the local board inspection fund account not paid to the local board of health as provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to receive payments from the local board inspection fund account, to enforce the provisions of this chapter and the rules adopted under it."

Section 29. Section 50-57-102, MCA, is amended to read:

"50-57-102. Definitions. Unless the context clearly requires otherwise, in this chapter~~,~~ the following definitions apply:

(1) "Consumer" means a person who:

(a) is a member of the public;

(b) takes possession of food;

(c) is not functioning in the capacity of an operator of an establishment; and

(d) does not offer the food for resale.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Dietary supplement" means a product, other than a tobacco product, that is intended to supplement the diet and:

(a) is advertised only as a food supplement; and

(b) bears or contains one or more of the following ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical substance;

(iv) an amino acid; or

(v) a dietary substance used to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract, or a combination of any ingredients described in subsections (3)(b)(i) through (3)(b)(iv).

(4) "Establishment" means a wholesale food manufacturing establishment, wholesale food salvage establishment, wholesale food warehouse, wholesale ice manufacturer, or wholesale water bottler.

(5) (a) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption. The term includes dietary supplements.

(b) The term does not include nonprescription drugs.

(6) "Local board of health" means a county, city, city-county, or district board of health.

(7) "Local health officer" means a county, city, city-county, or district health officer appointed by the local board of health or the health officer's authorized representative.

(8) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(9) "Retail" means the provision of food directly to the consumer.

(10) "Retail food establishment" ~~means an establishment, as defined in 50-50-102, that provides food directly to the consumer~~ *has the meaning provided in 50-50-102.*

(11) (a) "Wholesale" means the sale or provision of food to a retail food establishment or ~~other~~ *to another* person engaged in retail sales who sells or provides the food directly to the consumer.

(b) The term does not include the sale or provision of food at retail.

(12) (a) "Wholesale food manufacturing establishment" means a facility and the facility's buildings or structures used to manufacture or prepare food for human consumption at wholesale.

(b) The term does not include:

(i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) slaughterhouses, meat packing plants, or meat depots; or

(iii) producers or harvesters of raw and unprocessed farm products.

(13) "Wholesale food salvage establishment" means an entity that is engaged in reconditioning or by other means salvaging distressed food or that sells, buys, or distributes for human consumption any salvaged food. The term includes a salvage broker, a salvage operator, and a salvage warehouse.

(14) (a) "Wholesale food warehouse" means a facility used to store food or cosmetics for distribution to retailers.

(b) The term includes a frozen food plant that is used to freeze, process, or store food, including any facility used in conjunction with the frozen food plant.

(c) The term does not include a wine, beer, or soft drink warehouse that is separate from facilities where brewing or drink manufacturing occurs.

(15) (a) "Wholesale ice manufacturer" means an entity that produces ice for human consumption that is sold at wholesale in packaged form or in bulk form for food, drink, or culinary purposes.

(b) The term does not include:

(i) persons, hotels, restaurants, inns, caterers, food service contractors, or theaters that manufacture or furnish ice solely for their customers in a manner that is incidental to the production, sale, or dispensing of other goods and services; or

(ii) a retail food establishment that manufactures ice in packaged form for onsite retail sales to the consumer.

(16) (a) "Wholesale water bottler" means an entity that is engaged in the production, packaging, manufacturing, or processing of drinking water, culinary bottled water, or water otherwise processed and packaged for human consumption that is sold at wholesale.

(b) The term does not include a facility that produces, packages, manufactures, or processes drinking water, culinary bottled water, or water otherwise processed and packaged for human consumption onsite for retail sale."

Section 30. Section 81-22-208, MCA, is amended to read:

"81-22-208. Licenses and schedule of license fees. (1) Licenses and license fees required under this part must be established by the department for the following facilities and activities:

(a) a manufactured dairy products plant. However, a plant license is not required of a *retail* food ~~service~~ establishment licensed ~~by the department of public health and human services, as defined in 50-50-102~~ *as provided in Title 50, chapter 50*, and a license is not required to manufacture nondairy products when only nondairy products are manufactured.

(b) a cream station. However, a license is not required if the cream station is owned and operated by a licensed plant, but the milk and cream, equipment, premises, and means of transporting milk or cream is subject to official inspection.

(c) a dairy producing milk for manufacturing purposes. However, a dairy license is not required if the dairy farm is licensed by the department to produce and sell milk or cream in the form in which it is originally produced as required by 81-21-102.

(d) a grader-weigher-sampler, tester, and hauler. However, a separate grader-weigher-sampler, tester, and hauler license is required whether a person performing these activities owns and operates the plant, is employed by the plant, or is self-employed.

(2) *(a)* A license is valid on the date issued and expires on December 31 of that year unless suspended or revoked by the department. A license must be renewed by the first January 31 following the expiration date. A license renewal application form may be supplied by the department. ~~When the~~ *The* license renewal application form ~~is~~ *when* returned to the department~~, it~~ must be accompanied by the correct license fee.

(b) A license must be posted in conspicuous view at the place of business.

(c) A license is not transferable from place to place or from person to person.

(3) A penalty fee in an amount established by ~~a~~ rule ~~of~~ *by* the department may be imposed ~~by it~~ on a person who fails to apply for renewal of a license if under this part that person is required to be licensed.

~~(3)~~*(4)* All license fees collected *under this section* must be deposited in the general fund."

Section 31. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 50, chapter 50, part 1, and the provisions of Title 50, chapter 50, part 1, apply to [sections 1 through 4].

Approved April 13, 2015

CHAPTER NO. 240

[HB 529]

AN ACT PROHIBITING A CANDIDATE FROM SERVING AS A POLL WATCHER; AND AMENDING SECTION 13-13-120, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-13-120, MCA, is amended to read:

"13-13-120. Poll watchers — announcement of elector's name. *(1)* The election judges shall permit one poll watcher from each political party to be stationed close to the poll lists in a location that does not interfere with the election procedures. At the time when each elector signs the elector's name, one of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers must also be permitted to observe all of the vote counting procedures of the judges after the closing of the polls and all entries of the results of the elections.

(2) A candidate may not serve as a poll watcher at a polling place where electors are voting on ballots with the candidate's name on them."

Approved April 13, 2015

CHAPTER NO. 241

[HB 580]

AN ACT PROHIBITING CERTAIN PERSONS FROM DISTRIBUTING ANYTHING OF VALUE TO ELECTORS AT OR OUTSIDE A POLLING PLACE ON ELECTION DAY; AND AMENDING SECTION 13-35-211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-35-211, MCA, is amended to read:

"13-35-211. Electioneering — soliciting information from electors. (1) A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located~~, which~~ *that* aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) On election day, a candidate, a family member of a candidate, or a worker or volunteer for the candidate's campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which the polling place is located.

~~(2)~~*(3)* A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia ~~which~~ *that* is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

~~(3)~~*(4)* A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue."

Approved April 13, 2015

CHAPTER NO. 242

[HB 439]

AN ACT REQUIRING THE BOARD OF LIVESTOCK TO ELECTRONICALLY RECORD MEETINGS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Board meetings — recording required. (1) The board shall audio record and may video record all board meetings, including meetings held by conference call or other electronic means.

(2) The board shall make the audio or video recording available online in real time when possible and shall make meeting recordings publicly available on the board's website within 2 business days of the meeting date.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 81, chapter 1, part 1, and the provisions of Title 81, chapter 1, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2015

CHAPTER NO. 243

[HB 578]

AN ACT REQUIRING THAT THE NORTHEAST MONTANA VETERANS MEMORIAL PARK IN FORT PECK, MONTANA, BE DESIGNATED ON OFFICIAL STATE MAPS.

WHEREAS, Montanans have a long history of uncommon patriotism and have always been ready and willing to come to the defense of the United States of America; and

WHEREAS, had it not been for the selfless sacrifice of these brave men and women, we would likely be living under an oppressive form of government, and we all owe them a debt of gratitude; and

WHEREAS, the Northeast Montana Veterans Memorial Park memorializes the service and sacrifice of all military veterans, particularly those from Northeast Montana, including Phillips, Valley, Roosevelt, Daniels, McCone, Garfield, Dawson, Sheridan, and Richland counties.

Be it enacted by the Legislature of the State of Montana:

Section 1. Northeast Montana Veterans Memorial Park. The department of commerce and the department of transportation shall identify the Northeast Montana Veterans Memorial Park in Fort Peck, Montana, on official state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 5, and the provisions of Title 1, chapter 1, part 5, apply to [section 1].

Approved April 15, 2015

CHAPTER NO. 244

[SB 101]

AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO SET A PERCENTAGE OF EARNINGS THAT INMATE WORKERS ARE REQUIRED TO SAVE; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 53-1-107, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-1-107, MCA, is amended to read:

"53-1-107. (Temporary) Inmate financial transactions and trust account system. (1) An inmate of a state prison, as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

~~(4)~~*(5)* The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

~~(5)~~*(6)* An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1). (Terminates June 30, 2015—sec. 14, Ch. 374, L. 2009.)

53-1-107. (Effective July 1, 2015) Inmate financial transactions and trust account system. (1) An inmate of a state prison, as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

~~(4)~~*(5)* The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

~~(5)~~*(6)* An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

Approved April 15, 2015

CHAPTER NO. 245

[SB 255]

AN ACT REVISING THE REQUIREMENTS FOR THE ADVANCING AGRICULTURAL EDUCATION IN MONTANA PROGRAM; REMOVING THE LIMIT ON PAYMENTS PER SCHOOL YEAR; AUTHORIZING PAYMENTS TO EXISTING PROGRAMS THAT ADD ADDITIONAL TEACHERS; AMENDING SECTION 20-7-334, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-334, MCA, is amended to read:

"20-7-334. Advancing agricultural education in Montana program account. (1) There is an advancing agricultural education in Montana program account in the state special revenue fund provided for in 17-2-102.

(2) Money in the account and money appropriated by the legislature for the purpose of this section must be used by the office of public instruction for addressing the stability of and making improvements to Montana's agricultural education programs. The office of public instruction shall adopt rules to implement the national quality program standards.

(3) (a) Each agricultural education program in the state that completes the national quality program standard evaluation as adopted by rule and submits a plan of improvement to the office of public instruction's agricultural education specialist may receive a payment of ~~$500. An agricultural education program may not receive more than one payment in a school year.~~ *$1,000 prorated per full-time equivalent teacher endorsed in agricultural education who teaches approved agricultural education courses through the local agricultural education program.*

(b) Each agricultural education program in the state that submits a detailed budget to increase the quality of its agricultural education program based on the plan of improvement may receive a payment of up to $1,000 *prorated per full-time equivalent teacher endorsed in agricultural education who teaches approved agricultural education courses through the local agricultural education program*. ~~An agricultural education program may not receive more than one payment in a school year.~~

(c) Each school that adds agricultural education to its curriculum and recruits and retains an endorsed agricultural education teacher must receive a ~~one-time~~ payment of up to $7,500. *A school with an existing agricultural education program is eligible for an additional payment of up to $7,500 each time the school expands the program's teaching staff by adding a full-time equivalent teacher endorsed in agricultural education.*

(d) Program administrators in Bozeman and Helena must receive a total of ~~$11,250~~ *$20,000* annually for the costs of providing a minimum of one onsite visit each year to each participating school."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 15, 2015

CHAPTER NO. 246

[HB 342]

AN ACT ALLOWING FOR ELECTRONIC ADDRESS CONFIRMATION FOR AN ELECTOR RESPONDING TO THE BIENNIAL ABSENTEE BALLOT LIST CONFIRMATION MAILING; ALLOWING AN ELECTOR TO RESPOND TO THE CONFIRMATION MAILING USING E-MAIL; ALLOWING AN ELECTION ADMINISTRATOR TO ESTABLISH A WEBSITE FOR ELECTORS TO RESPOND TO THE CONFIRMATION MAILING; AND AMENDING SECTION 13-13-212, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot — special provisions — biennial absentee ballot list. (1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using a standard application form provided by rule by the secretary of state pursuant to 13-1-210 or by making a written request, which must include the applicant's birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(b) A person who holds a power of attorney from an absent uniformed services elector [a uniformed-service voter] may apply for an absentee ballot for that election on behalf of the uniformed services elector [uniformed-service voter]. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the absentee election board or by an authorized election official as provided in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the absentee election board or by an authorized election official at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under subsection (2)(a) must be received by the election administrator within the time period specified in 13-13-211(2).

(3) (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote as long as the elector remains qualified to vote and resides at the address provided in the initial application. The request may be made when the individual applies for voter registration using the standard application form provided for in 13-1-210.

(b) *(i)* The election administrator shall biennially mail a forwardable address confirmation form to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form must request the elector's driver's license number or the last four digits of the elector's social security number. *The address confirmation form must include an e-mail address for the election administrator that can be used by the elector to confirm that the elector wishes to continue to receive an absentee ballot and to provide the requested information.* The address confirmation form must be mailed in January of every even-numbered year. The address confirmation form is for elections to be held between February 1 following the mailing through January of the next even-numbered year.

(ii) An election administrator may provide a website on which the elector can provide the required information to confirm that the elector wishes to remain on the biennial absentee ballot list.

(iii) ~~The~~ *Except as provided in subsections (3)(b)(iv) and (3)(b)(v), the* elector shall sign the form, indicate the address to which the absentee ballot should be sent, provide the elector's driver's license number or the last four digits of the elector's social security number, and return the form to the election administrator.

(iv) The elector may provide the required information to the election administrator using:

(A) the e-mail address provided on the form; or

(B) a website established by the election administrator.

(v) The elector does not need to provide a signature when using either option provided in subsection (3)(b)(iv) to confirm that the elector wishes to remain on the biennial absentee ballot list.

(c) If the form is not completed and returned *or if the elector does not respond using the options provided in subsection (3)(b)(iv)*, the election administrator shall remove the elector from the biennial absentee ballot list.

~~(c)~~*(d)* An elector may request to be removed from the biennial absentee ballot list for subsequent elections by notifying the election administrator in writing.

~~(d)~~*(e)* An elector who has been or who requests to be removed from the biennial absentee ballot list may subsequently request to be mailed an absentee ballot for each subsequent election.

(4) In a mail ballot election, ballots must be sent under mail ballot procedures rather than under the absentee ballot procedures set forth in subsection (3)."

Approved April 16, 2015

CHAPTER NO. 247

[HB 400]

AN ACT ALLOWING AN ELECTOR WITH A DISABILITY TO VOTE USING AN ELECTRONIC BALLOT; PROVIDING VOTING PROCEDURES RELATING TO ELECTRONIC BALLOTS FOR ELECTORS WITH DISABILITIES; REVISING THE SECRETARY OF STATE'S RULEMAKING AUTHORITY; AND AMENDING SECTION 13-19-301, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Electronic ballots for disabled persons — procedures — definition — rulemaking. (1) (a) Upon a written or an in-person request from a legally registered or provisionally registered elector with a disability, an election administrator shall provide the elector with an electronic ballot.

(b) The request may be made by electronic mail.

(2) (a) After receiving a request and verifying that the elector is legally registered or provisionally registered, the election administrator shall provide to the elector an electronic ballot, instructions for completing the ballot, a secrecy envelope, and a transmittal cover sheet that includes an elector affirmation. If the elector is provisionally registered, the election administrator shall include instructions about what information the elector shall include with the voted ballot pursuant to 13-13-201(4).

(b) The election administrator shall maintain an official log of all ballots provided pursuant to this section.

(c) After voting the ballot, the elector shall print the ballot, place it in the secrecy envelope, sign the affirmation, including by fingerprint, mark, or agent pursuant to 13-1-116, or provide a driver's license number or the last four digits of the elector's social security number. If the elector is provisionally registered, the elector shall also return sufficient voter identification and eligibility information to allow the election administrator to determine pursuant to rules adopted under 13-2-109 that the elector is legally registered. The elector shall return the voted ballot and affirmation in a manner that ensures both are received by 8 p.m. on election day.

(d) An elector may return the voted ballot and affirmation in the regular mail provided they are received at the office of the election administrator by 8 p.m. on election day. A valid ballot must be counted if it is received at the office of the election administrator by 8 p.m. on election day.

(3) After receiving a ballot and secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-241, the election administrator shall log the receipt of the ballot and process it as required in Title 13, chapter 13. If the ballot is rejected, the election administrator shall notify the elector pursuant to 13-13-245.

(4) (a) When performing the procedures prescribed in 13-13-241(7) to open secrecy envelopes, an election official shall place in a secure absentee ballot envelope any ballot returned pursuant to this section that requires transcription. No sooner than the time provided in 13-13-241(7), the election administrator shall transcribe the returned ballots using the procedure prescribed below and in accordance with any rules established by the secretary of state to ensure the security of the ballots and the secrecy of the votes.

(b) No fewer than three election officials shall participate in the transcription process to transfer the elector's vote from the received ballot to the standard ballot used in the precinct.

(c) A number must be written on the secrecy envelope that contains the original voted electronic ballot, and the same number must be placed on the transcribed ballot and in the official log.

(d) The election officials who transcribed the original voted electronic ballot shall sign the log next to the number.

(e) No one participating in the ballot transmission process may reveal any information about the ballot.

(5) The secretary of state shall adopt rules to implement and administer this section, including rules to ensure the security of the ballots and the secrecy of the votes.

(6) For the purposes of this section, "disability" has the meaning provided in 13-3-202.

Section 2. Section 13-19-301, MCA, is amended to read:

"13-19-301. Voting mail ballots. (1) Upon receipt of a mailed ballot, the elector may vote by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the signature envelope;

(d) executing the affirmation printed on the signature envelope; and

(e) returning the signature envelope with all appropriate enclosures, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when the marked ballot is received at a place of deposit.

(3) A legally registered or provisionally registered elector with a disability may receive and vote a ballot using procedures established in [section 1]."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 13, and the provisions of Title 13, chapter 13, apply to [section 1].

Approved April 16, 2015

CHAPTER NO. 248

[HB 101]

AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REVISING PROVISIONS OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; PROVIDING FOR RECOVERY OF IMPROPER PAYMENTS; REVISING CERTAIN BENEFITS FOR CONTINGENT ANNUITANTS AND BENEFICIARIES; CLARIFYING OPTIONAL MEMBERSHIP PROVISIONS; CLARIFYING THE CALCULATION OF CERTAIN BENEFITS; REVISING CERTAIN BENEFIT PAYMENTS AND MEMBERSHIP ELECTION PROVISIONS; ELIMINATING EXPIRED PROVISIONS; AMENDING SECTIONS 5-2-304, 19-2-405, 19-2-801, 19-2-903, 19-2-904, 19-2-908, 19-3-411, 19-3-412, 19-3-904, 19-3-1105, 19-3-1106, 19-3-1210, 19-3-1501, 19-3-2141, 19-5-701, 19-5-802, 19-7-301, 19-7-410, 19-7-503, 19-7-1001, 19-8-302, 19-8-801, 19-8-1001, 19-8-1002, 19-9-301, 19-9-1206, 19-17-112, AND 19-20-302, MCA; REPEALING SECTION 19-9-1020, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-2-304, MCA, is amended to read:

"5-2-304. Participation in public retirement systems. (1) The purpose of this section is to allow a person who is elected or appointed to the Montana legislature and who is also a member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative employment to continue the person's participation in the public retirement system of which the person is a member.

(2) This section is not intended to provide duplicate credit for the same service in two retirement systems supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments specifically provided for in the laws governing the operation of individual retirement systems.

(3) (a) A person who is an inactive or retired member of a retirement system provided for in Title 19, chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is elected or appointed to be a legislator may:

(i) return to active membership in the system of which the person is an inactive or retired member under the requirements of that system; or

(ii) remain an inactive or retired member of the retirement system and become an active member of the public employees' retirement system pursuant to ~~19-3-412~~ *[section 9]*.

(b) A person who is an inactive or retired member of the public employees' retirement system provided for in Title 19, chapter 3, and who is elected or

appointed to the legislature may return to active membership in the public employees' retirement system but cannot simultaneously be an inactive or retired member of the system as a result of prior covered terminated employment and an active member of the retirement system under ~~19-3-412~~ *[section 9]* or this section.

(4) (a) A person who is an active member of a public retirement system governed by state law and who is elected or appointed to be a legislator may, but is not required to, continue the person's participation in that public retirement system while engaged in official duties as a legislator.

(b) To continue participation as an active member in the public retirement system, a legislator shall, within 90 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written election with the teachers' retirement board or the public employees' retirement board.

(5) A legislator who elects to continue participation as an active member as provided in subsection (4) shall continue the payments into the fund of the retirement system at the rate currently in effect in the system based on the legislator's monthly salary as a member of that system.

(6) The state contribution must be made by legislative appropriation. It must equal the appropriate employer contribution at the rate currently in effect in the system."

Section 2. Section 19-2-405, MCA, is amended to read:

"19-2-405. Employment of actuary — annual investigation and valuation. (1) The board shall retain a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with public systems of pensions. The actuary is the technical adviser of the board on matters regarding the operation of the retirement systems.

(2) The board shall require the actuary to make and report on an annual actuarial investigation into the suitability of the actuarial tables used by the retirement systems and an actuarial valuation of the assets and liabilities of each defined benefit plan that is a part of the retirement systems.

(3) The normal cost contribution rate, which is funded by required employee contributions and a portion of the required employer contributions to each defined benefit retirement plan, must be calculated as the level percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as those benefits accrue in the future.

(4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required employer contributions to the retirement plan, must be calculated as the level percentage of current and future defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan over a reasonable period of time, not to exceed 30 years, as determined by the board.

(b) In determining the amortization period under subsection (4)(a) for the public employees' retirement system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made to the defined benefit plan pursuant to 19-3-2117 and ~~19-21-203~~ *19-21-214*.

(5) The board shall require the actuary to conduct and report on a periodic actuarial investigation into the actuarial experience of the retirement systems and plans.

(6) The board may require the actuary to conduct any valuation necessary to administer the retirement systems and the plans subject to this chapter.

(7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to the state administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

(8) The board shall require the actuary to prepare for each employer participating in a retirement system the disclosures or the information required to be included in the disclosures as required by law and by the governmental accounting standards board or its generally recognized successor."

Section 3. Section 19-2-801, MCA, is amended to read:

"19-2-801. Designation of beneficiary. (1) In the absence of any statutory beneficiaries, designated beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the benefit of natural living persons that the member or payment recipient designates on the membership ~~card or other~~ form provided by the board.

(2) Unless otherwise provided by this title or by a valid temporary restraining order issued pursuant to 40-4-121, a member or payment recipient may revoke the designation and name different designated beneficiaries by filing with the board a new membership ~~card or other~~ form provided by the board.

(3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, *the person shall complete a new membership form and file it as provided in subsection (2). However, until the new membership form is filed,* the board shall reference the membership ~~card~~ *form* executed by the person prior to initial termination of membership for the same purposes as prior to termination. Beneficiaries ~~nominated~~ *designated* on that membership ~~card~~ *form* continue *to be beneficiaries* until ~~changed as provided in subsection (2) of this section~~ *the new membership form is filed*.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent membership ~~card~~ *form* filed with the board is effective for all purposes until the member retires.

(b) A member may elect to either override or retain the member's existing beneficiary designation when completing a membership ~~card~~ *form* for temporary or secondary employment with another employer within the same Title 19 retirement system.

(c) When a member retires, the designated beneficiaries or contingent annuitants named on the retirement application become effective.

(5) If a statutory or designated beneficiary predeceases the member or payment recipient, the predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts proportional to each remaining statutory or designated beneficiary's original share.

(6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member or payment recipient will be considered, with respect to that interest, as having predeceased the member or payment recipient.

(7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501, 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of the member."

Section 4. Section 19-2-903, MCA, is amended to read:

"19-2-903. ~~Adjustment~~ *Correction* of errors in payments. (1) If the amount of a contribution payment is incorrect, the board may reject the payment or accept the payment and approve any of the following methods to collect the correct amount:

(a) adjustment of subsequent payments from a member or an employer;

(b) installment payments or a lump-sum payment from an employer; or

(c) a lump-sum payment or a rollover from a member.

(2) If a purchase of service credit made pursuant to 19-2-704 is determined to be incorrect, the board may approve correcting the error by any of the following methods:

(a) adjusting the subsequent lump-sum or installment payments from the member or the member's employer;

(b) accepting a lump-sum payment or rollover from the member for the amount underpaid; or

(c) granting the member service credit proportional to the amount actually paid.

(3) If fraud or error results in a member, survivor, or beneficiary receiving more or less than entitled to, then ~~on~~ *upon* the discovery of the error, the board shall correct the error ~~and, if necessary, equitably adjust the payments~~.

(4) (a) Except as provided in subsection (5), if a benefit or payment is overpaid or paid to a person not entitled to receive the benefit or payment, the board may recover the full amount of the improper distribution, plus interest set at the assumed rate of return on the system's investments. The interest must be compounded annually and be applied monthly and must accrue from the date the recipient of the improper distribution received a final determination notice of the improper distribution until the total amount owed to the retirement system pursuant to this subsection (4) is paid in full.

(b) To recover an amount owed pursuant to this subsection (4), the board may adjust future benefit payments or arrange for another method of payment. For collection of amounts due, the board may pursue all remedies available by law to it, including but not limited to initiating a lawsuit or assigning or referring the debt to an attorney or collection agency.

(c) The board is entitled to recover its reasonable costs for pursuing collection, including but not limited to attorney fees or charges assessed by a collection agency. These costs may be added to the principal amount due under this subsection (4) and accrue interest as provided in subsection (4)(a).

(d) The recipient of an improperly paid benefit or payment is liable for repayment of the total amount owed pursuant to this subsection (4).

(e) The board may, for good cause, waive some or all of the interest charges or collection costs that may be assessed under this subsection (4).

(5) (a) If overpaid benefits or unpaid contributions resulted solely from an error made by the retirement system:

(i) the retirement system may recover the amount owed only with respect to the timeframe beginning 24 months prior to the date on which the retirement system issues an initial notice of the amount owed and ending when the amount owed is paid in full; and

(ii) interest may not be charged if the amount owed is paid within 30 days after issuance of the final staff determination.

(b) If the amount owed is not paid in full within 30 days after issuance of the final staff determination, the amount owed accrues interest at the retirement system's actuarially assumed annual rate of return, compounded monthly, beginning on the 31st day after issuance of the final staff determination. Interest continues to accrue until the amount owed to the retirement system is fully paid."

Section 5. Section 19-2-904, MCA, is amended to read:

"19-2-904. Withholding of group insurance premium from retirement benefit. *(1)* A retiree who is a participant in an employee group insurance plan that permits participation in the group plan following retirement may elect to have the monthly premium for group insurance withheld by the retirement system and paid directly by the system to the insurance carrier. In order to qualify for this withholding, a retiree must be a participant in a group insurance plan available to the employees of the former employer. Withholding may not be made for any retiree covered by an individual insurance policy.

(2) Following the death of a retiree who elected withholding of premiums under subsection (1), the retiree's contingent annuitant may elect to have the contingent annuitant's monthly premium for group insurance withheld by the retirement system and paid directly by the system to the insurance carrier. In order to qualify for this withholding, the contingent annuitant must be covered by the same group insurance plan that covered the retiree in accordance with subsection (1)."

Section 6. Section 19-2-908, MCA, is amended to read:

"19-2-908. Time of commencement of benefit — rulemaking. (1) (a) The board shall grant a benefit to any active or inactive member who is vested, or the member's statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

(b) A member may apply for retirement benefits before termination from employment, but commencement of the benefits must be as provided in this section.

(2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first day of the month following the eligible member's last day of employment or, if requested by the member in writing, on the first day of a later month.

(b) If an elected official's term of office expires before the 15th day of the month, the official may elect that service retirement benefits from a defined benefit plan commence on the first day of the month following the official's last full month in office. An official electing this option shall file a written application with the board. An official electing this option may not earn membership service, service credit, or compensation for purposes of calculating highest average compensation or final average compensation, as defined under the provisions of the appropriate retirement system, in the partial month ending the official's term, and compensation earned in that partial month is not subject to employer or employee contributions.

(3) (a) Subject to the provisions of subsection (3)(b), the disability retirement benefit payable to a member must commence on the day following the member's termination from employment.

(b) If a disabled member continues with a purchase of service or chooses to purchase service following termination of employment, the member's disability benefit may not commence until the service purchase is completed.

(4) If a member begins receiving retirement benefits payments later than when the member is initially eligible, the guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710, 19-6-711,

19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, and 19-13-1011 does not commence until January 1 of the year after the year in which the member begins to receive the member's retirement benefit payment. The guaranteed annual benefit adjustment may not be paid retroactively.

(5) *A designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit if the designated beneficiary is a natural person and notifies the board of the designated beneficiary's election in writing within 90 days after the designated beneficiary receives notice that the designated beneficiary is eligible to receive a death payment.* Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(6) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(7) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 7. Section 19-3-411, MCA, is amended to read:

"19-3-411. Eligible employees. Subject to 19-3-402, 19-3-403, ~~and~~ 19-3-412, *and [section 9],* eligible employees under the system who are not covered by a separate retirement system under this title include the following:

(1) any employee of the state of Montana, its university system or any of the colleges, schools, components, or units of the university system; and

(2) any employee of a contracting employer eligible to participate under the contract between the board and the contracting employer under 19-3-201."

Section 8. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership — *employees not in elected office.* (1) Except as provided in ~~5-2-304 and~~ subsection (2) ~~of this section~~, the following employees ~~and elected officials~~ in covered positions *that are not elected offices* shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):

~~(a) elected officials of the state or local governments, including individuals appointed to fill the unexpired term of elected officials, who:~~

~~(i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or~~

~~(ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the defined contribution plan at the time of their election;~~

~~(b)~~*(a)* employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

~~(c)~~*(b)* employees directly appointed by the governor;

~~(d)~~*(c)* employees working 10 months or less for the legislative branch to perform work related to the legislative session;

~~(e)~~*(d)* the chief administrative officer of any city or county; *and*

~~(f)~~*(e)* employees of county hospitals or rest homes.

(2) *(a)* ~~A member who is elected to a local government position in which the member works less than 960 hours in a fiscal year may, within 90 days of taking office, decline optional membership with respect to the member's elected position.~~ *An employee who is an active or inactive member at the time of*

employment is not eligible to make an election under subsection (1). Upon employment in the position, an employee who was an active member remains an active member for all covered employment and an employee who was an inactive member shall become an active member.

(b) A person who was a retired member before employment in a position for which membership is optional under subsection (1) is not eligible to make an election under subsection (1) and is subject to the provisions of Title 19, chapter 3, part 11.

(3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1) and provide written application forms to each employer.

(b) Each employee ~~or elected official~~ in a position covered under subsection (1) shall obtain the written application form from the employer and complete and return it to the board.

(c) The written application must be filed with the board~~:~~

~~(i) for an employee described in subsection (1)(d),~~ within 90 days ~~of~~ *after* the commencement of the employee's employment~~; and~~

~~(ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within 90 days of the commencement of the employee's or elected official's employment~~.

(d) The employer shall retain a copy of the employee's ~~or elected official's~~ written application.

(4) If the employee ~~or elected official~~ fails to file *with the board* the written application required under subsection (1) ~~with the board~~ within the time allowed in subsection (3), the ~~employee or elected official waives~~ *the failure must be considered an election to decline* membership.

(5) ~~An~~ *Except as provided in subsection (6), an* employee ~~or elected official~~ who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

(6) An employee ~~or elected official~~ who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

~~(7) Except as provided in subsection (2), membership in the retirement system is not optional for an employee or elected official who is already a member. Upon employment in a position for which membership is optional:~~

~~(a) a member who was an active member before the employment remains an active member;~~

~~(b) a member who was an inactive member before the employment becomes an active member; and~~

~~(c) a member who was a retired member before the employment is subject to part 11 of this chapter.~~

~~(8) (a) An employee who declines membership for a position for which membership is optional may not later become a member while still employed with the same employer but in a different optional membership position.~~

~~(b) An elected official who declines membership for a position for which membership is optional may not later become a member if reelected to the same optional membership position.~~

~~(c) If, after termination from employment for 30 days or more, an employee who was employed in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership.~~

~~(d) If the termination from employment is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.~~

(7) An employee who has made an election under this section may not make a new or different election under this section in any circumstance unless the employee has been terminated from employment in all optional membership positions for at least 30 days.

~~(9)~~*(8)* An employee accepting a position that requires membership ~~must~~ *shall* become a member even if the employee previously declined membership ~~and did not have a 30-day break in service~~ *under this section*."

Section 9. Optional membership — elected officials. (1) (a) Except as provided in 5-2-304 and subsection (2) of this section, a person who is elected or appointed to an elected office and paid a salary or wage by an employer shall elect either to become an active member of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3).

(b) If the elected official is a retired member, the elected official may make an election under this section to become an active member or to decline membership and remain a retired member with no limitation on the number of hours worked or wages earned in the elected office.

(2) An elected official who works more than 960 hours in a fiscal year in that elected office and who was an active or inactive member before becoming an elected official is not eligible to make an election under subsection (1). An active member remains an active member for all covered employment, and an inactive member shall become an active member.

(3) (a) The board shall prescribe the form of the written application required pursuant to this section and provide the form to each employer.

(b) An election form must be completed and returned to the board within 90 days after the elected official assumes office. Failure to file the written application form within 90 days is considered an election to decline membership.

(c) The employer shall retain a copy of the elected official's written application.

(4) Except as provided in subsection (5), an elected official who declines optional membership may not receive membership service or service credit for any employment in the position for which membership was declined.

(5) An elected official who declined optional membership under this section but who later becomes a member may purchase service credit for the period of time the person was employed in the optional position and declined membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

(6) An elected official who has made an election under this section and who is reelected or reappointed to the same office is not eligible to make a new election.

(7) For purposes of this section, "elected official" means all persons covered by subsection (1)(a).

Section 10. Section 19-3-904, MCA, is amended to read:

"19-3-904. Amount of service retirement benefit. (1) The monthly amount of service retirement benefit payable following retirement to a member hired before July 1, 2011, with:

(a) less than 25 years of membership service is the greater of one fifty-sixth of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3); or

(b) 25 or more years of membership service is the greater of 2% of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3).

(2) The monthly amount of service retirement benefit payable following retirement to a member hired on or after July 1, 2011, with:

(a) less than 10 years of membership service is the greater of 1.5% of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3);

(b) 10 or more years but less than 30 years of membership service is the greater of one fifty-sixth of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3); or

(c) 30 or more years of membership service is the greater of 2% of the member's highest average compensation multiplied by the number of years of the member's total service credit or the benefit calculated under subsection (3).

(3) ~~Instead of the benefit provided under subsection (1) or (2), a~~ *A* member ~~may~~ *is entitled to* receive *the greater of:*

(a) the benefit provided pursuant to subsection (1) or (2); or

(b) a monthly benefit that is the actuarial equivalent of *the sum of:*

(i) double the member's ~~accumulated~~ *regular* contributions *and regular interest; and*

(ii) ~~if that benefit is greater than the benefit the member would have received under subsection (1) or (2)~~ *any amounts paid by the member to purchase service credit and membership service as provided by law*."

Section 11. Section 19-3-1105, MCA, is amended to read:

"19-3-1105. Benefit upon second retirement. (1) ~~Except as otherwise expressly provided by law, a member with~~ *A member with an initial retirement date before January 1, 2016, who returns to active service and accrues:*

(a) less than 2 years of service credit before again terminating service:

(i) must receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions after the member's return to active service, plus regular interest on those contributions;

(ii) may not be awarded service credit for the period of reemployment; and

(iii) starting the first month following termination, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service.

(b) at least 2 years of service credit ~~accrued after reemployment must receive the benefit of~~ *before again terminating service must receive a recalculated retirement benefit based on* provisions enacted after the member's initial retirement~~, but only with respect to the service credit earned after reemployment~~.

(2) A member with an initial retirement date on or after January 1, 2016, who returns to active service and accrues:

(a) less than 5 years of service credit before again terminating service:

(i) must receive a refund, paid in the manner provided in 19-2-602, of the member's regular contributions after the member's return to active service, plus regular interest on those contributions;

(ii) may not be awarded service credit for the period of reemployment; and

(iii) starting the first month following termination, must receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service;

(b) at least 5 years of service credit before again terminating service must, starting the first month following termination:

(i) receive the same retirement benefit amount paid to the member in the month immediately prior to returning to active service; and

(ii) receive a second retirement benefit calculated for the period of reemployment under 19-3-902 or 19-3-904, as applicable, and based on the laws in effect as of the member's rehire date.

(3) Members who return to active service following retirement may not accrue postretirement benefit adjustments under Title 19, chapter 3, part 16, during the member's term of reemployment.

(4) Postretirement benefit adjustments will start to accrue on the benefits under:

(a) subsections (1)(a)(iii) and (2)(a)(iii) in January immediately following the member's second retirement;

(b) subsections (1)(b) and (2)(b) in January after the member has received the recalculated benefit for at least 12 months.

~~(2)~~*(5)* Upon retirement subsequent to a cancellation of a disability benefit under 19-3-1104, a member must receive a recalculated benefit as provided in 19-3-904 or 19-3-906, as applicable. The recalculated benefit is based on service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment."

Section 12. Section 19-3-1106, MCA, is amended to read:

"19-3-1106. Limited reemployment — reduction of service retirement benefit upon exceeding limits — reporting obligations — liability — exceptions. (1) A retired member under 65 years of age who was hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced $1 for each $1 earned after working 960 hours in that calendar year.

(2) A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has been terminated from employment for at least 90 days, and who returns to employment covered by the retirement system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount that, when added to the retiree's current annual retirement benefit, will not exceed the member's annualized highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever limitation

provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation, the retiree's benefits must be temporarily reduced $1 for each $1 of compensation earned in service beyond the applicable limitation during that calendar year.

(3) (a) The employer of a retiree returning to employment covered by the retirement system shall certify to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that employment during any pay period after retirement. The certification of hours and compensation may be submitted electronically pursuant to rules adopted by the board.

(b) An employer that fails to timely or accurately report the employment of, time worked by, or compensation paid to a retired member as required under subsection (3)(a) is jointly and severally liable with the retired member for repayment to the retirement system of retirement benefits paid to which the member was not entitled, plus interest.

(4) ~~A~~ *Except as provided in [section 9], a* retiree returning to employment covered by the retirement system may elect to return to active ~~membership~~ *service* at any time during this period of covered employment.

(5) The following members who return to employment covered by the retirement system are not subject to the hour or earnings limitations in subsections (1) and (2) ~~or~~ *but are subject to* the reporting requirements in subsection (3):

(a) a retired member who is 70 1/2 years of age or older; or

(b) an elected official in a covered position who, as a retired member, declines optional membership as provided in ~~19-3-412~~ *[section 9]*.

(6) ~~Except as provided in subsection (5), if~~ *If* a retired member is employed by an employer in a position that is reportable to the retirement system and the retired member is concurrently working for the employer in another position that is not reportable to the system, the position that is not reportable is considered to be part of the position that is reportable to the retirement system. All earnings of the retired member that are generated by these positions are reportable to the retirement system.

(7) For the purposes of this section, "employment covered by the retirement system" includes:

(a) work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and

(b) services performed by a retiree as an independent contractor for an employer participating in the system."

Section 13. Section 19-3-1210, MCA, is amended to read:

"19-3-1210. Death payments to designated beneficiaries of retired members. (1) When a retired member receiving an option 1 retirement benefit under 19-3-1501 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(2) If a retired member receiving an option 2 or 3 retirement benefit under 19-3-1501 dies with no surviving contingent annuitant, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated

contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) This section does not apply if the member was receiving a disability benefit. *The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5).*"

Section 14. Section 19-3-1501, MCA, is amended to read:

"19-3-1501. Optional forms of benefits — designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit under this subsection (2) is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2—a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3—a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4—a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an

equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

(3) The member or the designated beneficiary who elects an optional retirement benefit under subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(5) If the member dies after ~~retirement~~ *terminating service* and within 30 days ~~from~~ *after* the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, then the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

(7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

(8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option under subsection (2) and name a new contingent annuitant.

(9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

(10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 15. Section 19-3-2141, MCA, is amended to read:

"19-3-2141. Long-term disability plan — benefit amount — eligibility — administration and rulemaking. (1) For members hired prior to July 1, 2011:

(a) except as provided in subsection (1)(b), a disabled member eligible under the provisions of this section is entitled to a disability benefit equal to one fifty-sixth of the member's highest average compensation, as defined in 19-3-108, multiplied by the member's years of service credit, including any service credit purchased under 19-3-513;

(b) an eligible member with at least 25 years of membership service is entitled to a disability benefit equal to 2% of the member's highest average compensation, as defined in 19-3-108, multiplied by the member's years of service credit, including any service credit purchased under 19-3-513.

(2) For members hired on or after July 1, 2011, the monthly disability benefit payable to a disabled member eligible under the provisions of this section who has:

(a) more than 5 but less than 10 years of membership service is equal to 1.5% of the member's highest average compensation multiplied by the member's years of service credit, including any additional service credit purchased under 19-3-513;

(b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member's highest average compensation multiplied by the member's years of service credit, including any additional service credit purchased under 19-3-513; or

(c) 30 or more years of membership service is equal to 2% of the member's highest average compensation multiplied by the member's years of service credit, including any additional service credit purchased under 19-3-513.

(3) Payment of the disability benefit provided in this section is subject to the following:

(a) the member must be vested in the plan as provided in 19-3-2116;

(b) for members hired prior to July 1, 2011:

(i) if the member's disability occurred when the member was 60 years of age or less, the benefit may be paid only until the member reaches 65 years of age; and

(ii) if the member's disability occurred after the member reached 60 years of age, the benefit may be paid for no more than 5 years;

(c) for members hired on or after July 1, 2011:

(i) if the member's disability occurred when the member was less than 65 years of age, the benefit may be paid only until the member reaches 65 years of age; and

(ii) if the member's disability occurred after the member reached 65 years of age, the benefit may be paid for no more than 5 years; and

(d) the member shall satisfy the other applicable requirements of this section and the board's rules adopted to implement this section.

(4) Application for a disability benefit must be made in accordance with 19-2-406.

(5) The board shall make determinations on disability claims and conduct medical reviews in a manner consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination as provided in rules adopted by the board.

(6) If a member receiving a disability benefit under this section dies, the disability benefit payments cease and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125. *Any disability benefits paid in*

error after the member's death may be recovered by the board pursuant to 19-2-903.

(7) The board shall establish a long-term disability plan trust fund from which disability benefit costs pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined benefit plan trust fund.

(8) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement the provisions of this section."

Section 16. Section 19-5-701, MCA, is amended to read:

"19-5-701. Optional forms of benefits — designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit under this subsection (2) is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2—a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3—a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4—a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

(3) The member or designated beneficiary who elects an optional retirement benefit under subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(5) If the member dies after ~~retirement~~ *terminating service* and within 30 days ~~from~~ *after* the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

(7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

(8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option under subsection (2) and name a new contingent annuitant.

(9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

(10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 17. Section 19-5-802, MCA, is amended to read:

"19-5-802. Payments upon death from other than employment-related cause. (1) If ~~an active~~ *a* vested member dies before reaching normal retirement age, the member's designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in 19-5-502.

(2) When a retired member not covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account. At the designated beneficiary's request, the lump sum may be paid as an actuarially equivalent annuity that will not be subject to increases for any purpose.

(3) When a retired member covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(4) If a retired member who elected an option 2 or 3 benefit under 19-5-701 dies with no surviving contingent annuitant, the member's *designated beneficiary or, if there is no surviving designated beneficiary, the member's* estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(5) This section does not apply if the member was receiving a disability benefit. *The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5).*"

Section 18. Section 19-7-301, MCA, is amended to read:

"19-7-301. Membership — inactive vested members — inactive nonvested members. (1) (a) Except as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.

(b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs' retirement system.

(b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(3) (a) Except as provided in subsection (3)(b), a detention officer shall become a member of the sheriffs' retirement system.

(b) A detention officer who was a member of the public employees' retirement system on July 1, 2005, may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board before May 1, 2006.

(4) A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of

the sheriffs' retirement system by filing a written election with the board no later than ~~30~~ *90* days after beginning the employment.

(5) Failure to make an election as provided in subsection (4) is considered an election to remain in the public employees' retirement system.

~~(5)~~*(6)* A sheriff, investigator, or detention officer who elects to become a member of the sheriffs' retirement system must be an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

~~(6)~~*(7)* (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

~~(7)~~*(8)* (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 19. Section 19-7-410, MCA, is amended to read:

"19-7-410. Contributions based on total compensation when member receives disability compensation. When a member receives compensation from both the member's employer and the workers' compensation program ~~under the provisions of 7-32-2113~~, the member's compensation reported by the employer is the same as if the member was in active service, and the member and employer contributions required by this chapter must be calculated and paid on that total compensation."

Section 20. Section 19-7-503, MCA, is amended to read:

"19-7-503. Service retirement benefit. (1) The amount of any service retirement benefit granted to a member is 2.5% of the member's highest average compensation for each year of service credit.

(2) When a retired member receiving an option 1 retirement benefit under 19-7-1001 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) If a retired member who elected an option 2 or 3 benefit under 19-7-1001 dies with no surviving contingent annuitant, the member's *designated beneficiary or, if there is no surviving designated beneficiary, the member's* estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(4) This section does not apply if the member was receiving a disability benefit. *The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5).*"

Section 21. Section 19-7-1001, MCA, is amended to read:

"19-7-1001. Optional forms of benefits — designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other

benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit under this subsection (2) is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant, as follows:

(a) option 2—a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3—a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4—a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

(3) The member or the designated beneficiary who elects an optional retirement benefit under subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(5) If the member dies after ~~retirement~~ *terminating service* and within 30 days ~~from~~ *after* the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

(7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the contingent annuitant.

(8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option under subsection (2) and name a new contingent annuitant.

(9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

(10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 22. Section 19-8-302, MCA, is amended to read:

"19-8-302. Public employees' retirement system — transfer of membership. (1) Except as provided in subsection (3), an eligible peace officer ~~must~~ *shall* become a member of the game wardens' and peace officers' retirement system on the first day of service.

(2) A person who is a member of the game wardens' and peace officers' retirement system assigned to law enforcement who transfers to a position involving duties other than law enforcement within the same state agency may retain membership in the game wardens' and peace officers' retirement system by filing a written election with the board no later than 90 days after transfer to the new position.

(3) A person who is a member of the public employees' retirement system who transfers to a position covered by the game wardens' and peace officers' retirement system may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by filing

a written election with the board no later than 90 days after transfer to the new position.

(4) Failure to make an election as provided in subsection (3) is considered an election to remain in the public employees' retirement system."

Section 23. Section 19-8-801, MCA, is amended to read:

"19-8-801. Optional forms of benefits — designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. If the member does not elect an optional retirement benefit pursuant to subsection (2), the member's retirement benefit is known as an option 1 benefit.

(2) An optional retirement benefit under this subsection (2) is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2—a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant. This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (2)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3—a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4—a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis;

(iii) if all surviving contingent annuitants die prior to the end of the period certain and the last remaining contingent annuitant has failed to name a designated beneficiary, the remaining payments must be converted to an equivalent lump-sum amount and paid to the estate of the last surviving contingent annuitant.

(3) The member or the designated beneficiary who elects an optional retirement benefit under subsection (2) shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(4) If the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(5) If the member dies after ~~retirement~~ *terminating service* and within 30 days ~~from~~ *after* the date that the member's written application electing or changing an election of an optional retirement benefit under subsection (2) is received by the board, the election is void.

(6) After the member or designated beneficiary has received and accepted an initial retirement benefit payment, the member may not change the selected option except as provided in subsection (7).

(7) A retired member receiving an optional retirement benefit pursuant to subsection (2)(a) or (2)(b) may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

(8) A member who applies to revert under subsection (7) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original option 1 retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option under subsection (2) and name a new contingent annuitant.

(9) If the member selects an alternative under subsection (8)(b) or (8)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

(10) A written application pursuant to subsection (7) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 24. Section 19-8-1001, MCA, is amended to read:

"19-8-1001. Benefits upon employment-related death. If the board finds that a member died as a direct and proximate result of injury received in the course of the member's service, a monthly survivorship benefit must be paid to the member's designated beneficiary equal to 50% of the highest average compensation of the member. If the deceased member has completed more than

25 years of service credit, the survivorship benefit must equal ~~2%~~ *2.5%* of the member's highest average compensation for each year of service credit."

Section 25. Section 19-8-1002, MCA, is amended to read:

"19-8-1002. Postretirement death payments. (1) When a retired member receiving an option 1 retirement benefit under 19-8-801 dies, the member's designated beneficiary or, if there is no surviving designated beneficiary, the member's estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(2) If a retired member who elected an option 2 or 3 retirement benefit under 19-8-801 dies with no surviving contingent annuitant, the member's *designated beneficiary or, if there is no surviving beneficiary, the member's* estate must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the member's retirement minus the total of any retirement benefits already paid from the member's account.

(3) This section does not apply if the member was receiving a disability benefit. *The member's accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5).*"

Section 26. Section 19-9-301, MCA, is amended to read:

"19-9-301. Active membership — inactive vested member — inactive nonvested member. (1) A police officer becomes an active member of the retirement system:

(a) on the date the police officer's service with an employer commences;

(b) on July 1, 1977, if the police officer is employed by an employer on that date; or

(c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the effective date of the election if the police officer is employed by the employer on that date. A person who is a member of the public employees' retirement system on the date of the employer's election may remain in the public employees' retirement system or may elect to become a member of the municipal police officers' retirement system by filing an irrevocable written election with the board no later than 90 days after the date of the employer's election.

(2) Failure to make an election as provided in subsection (1)(c) is considered an election to remain in the public employees' retirement system.

~~(2)~~*(3)* Upon becoming eligible for membership, the police officer shall complete the forms and furnish the proof required by the board.

~~(3)~~*(4)* A member becomes an inactive member on the first day of an approved absence from service of a substantial duration.

~~(4)~~*(5)* (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer contributions.

~~(5)~~*(6)* (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 27. Section 19-9-1206, MCA, is amended to read:

"19-9-1206. Survivorship benefits. (1) If a participant dies prior to the receipt of the DROP benefit pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum payment equal to the participant's DROP benefit ~~and the member's accumulated contributions minus any benefits paid from the member's DROP account, including monthly DROP accruals~~ *as of the date of the member's death and the benefit the surviving spouse or dependent child would have received under 19-9-804 had the member retired rather than elected to participate in the DROP*.

(2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive a lump-sum payment equal to the participant's DROP benefit *as of the date of the member's death and the member's accumulated contributions minus any benefits paid from the member's account, including monthly DROP payments*.

(3) The benefit paid pursuant to this section must include interest credited to the participant's account as follows:

(a) through June 30, 2009, interest must be credited every fiscal yearend at a rate reflecting the retirement system's annual investment earnings for the applicable fiscal year;

(b) after June 30, 2009, interest must be credited every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend."

Section 28. Section 19-17-112, MCA, is amended to read:

"19-17-112. Filing required reports — limitations. (1) The chief or designated official of each fire company that claims eligibility under this chapter shall, on or before September 1 of each year, file with the board an annual certificate, the current year's roster, and a membership card for each new member.

(2) (a) The annual certificate is a form reporting a fire company's membership eligibility for the previous fiscal year.

(b) The annual certificate must be completed on a form prescribed by the board and contain the date of organization of the fire company and the full name, social security number, and date of birth of each member of the fire company who was a member for the entire fiscal year and who successfully completed 30 hours of training during the preceding fiscal year, as required by 19-17-108.

(c) The chief or designated official shall subscribe and verify that the fire company and members qualified under 19-17-108 and 19-17-109.

(d) The board shall maintain the certificate for the purpose of establishing service for members and eligibility for benefits.

(3) The roster must be signed by the fire chief or designated official, filed with the board, and contain information in writing that provides the names of the fire company, its date of organization, officers, and roll of active and inactive members for the current fiscal year. A roster may be updated to report new members but may not be retroactive.

(4) A membership ~~card~~ *form* must be completed and filed with the board for each member who was a member on or before July 1, 2011, and for each new member who joins after July 1, 2011.

(5) The current fire chief shall file any late or amended annual certificates and the associated certified training records within 3 years of the original annual certificate due date. An annual certificate may be amended only once. The board shall consider and may approve late filings. Information provided to the board by the fire chief must be in accordance with the board's rules.

(6) The current fire chief may request to appear before the board for consideration of the request to file a late or amended annual certificate."

Section 29. Section 19-20-302, MCA, is amended to read:

"19-20-302. Active membership. (1) Unless otherwise provided by this chapter, the following persons employed by an employer must be active members of the retirement system:

(a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

(b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system and who has not elected or is not required to participate in the university system retirement program under Title 19, chapter 21;

(c) a person employed as a speech-language pathologist, school nurse, professionally qualified person as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school psychologist;

(d) a person employed in a teaching or an educational services capacity by the office of a county superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school for the deaf and blind, or a school district;

(e) a person who is an administrative officer or a member of the instructional staff of the board of public education;

(f) the superintendent of public instruction or a person employed as a teacher or in an educational services capacity by the office of public instruction;

(g) except as provided in subsection (2), a person elected to the office of county superintendent of schools;

(h) a person who is an administrative officer or a member of the instructional or scientific staff of a community college; and

(i) a person employed in a nonclerical position and who is reported on an employer's annual data collection report submitted to the office of public instruction.

(2) A retired member elected to the office of county superintendent of schools or appointed to complete the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership in the public employees' retirement system under the provisions of 19-3-412 *or [section 9]* and shall, within 30 days of taking office, file an irrevocable written election to become or to not become an active member of the teachers' retirement system. The retirement system membership of an elected county superintendent of schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county superintendent of schools.

(3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

(a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for the person's creditable service totally paid by an employer.

(4) (a) A substitute teacher or a part-time teacher's aide:

(i) shall file an irrevocable written election determining whether to become an active member of the retirement system on the first day of employment; or

(ii) is required to become an active member of the retirement system after completing 210 hours of employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership under subsection (4)(a)(i).

(b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute teacher is required to remain a member as long as the teacher is available for employment in that capacity.

(c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the first day of employment of the option to elect membership under subsection (4)(a)(i).

(d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership and the employer shall retain the statement.

(5) A school district clerk or business official may not become a member of the teachers' retirement system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to remain an active member of the system while employed in that capacity, and any postretirement earnings from employment as a school district clerk or school business official are subject to the limit on earnings provided in 19-20-731.

(6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must be treated alike.

(7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours a day assisting a certified teacher in a classroom.

(8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b) may not elect to participate in the university system retirement program under Title 19, chapter 21.

(b) An employee of the Montana university system who is a participant in the university system retirement program under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a) or (1)(c) through (1)(i) is ineligible to be an active member of this system."

Section 30. Repealer. The following section of the Montana Code Annotated is repealed:

19-9-1020. One-time permanent ad hoc purchasing power adjustment.

Section 31. Codification instruction. [Section 9] is intended to be codified as an integral part of Title 19, chapter 3, part 4, and the provisions of Title 19, chapter 3, part 4, apply to [section 9].

Section 32. Effective date. [This act] is effective January 1, 2016.

Approved April 17, 2015

CHAPTER NO. 249

[HB 557]

AN ACT REVISING WHAT CONSTITUTES A LEGAL FENCE IN MONTANA; ADDING THREE-WIRE ELECTRIC FENCE TO THE LIST OF LEGAL FENCES; AMENDING SECTIONS 76-16-322 AND 81-4-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-16-322, MCA, is amended to read:

"76-16-322. Fence-out requirement. Farming lands lying within the external boundaries of a state district ~~shall~~ *must* be protected by the owner or lessee to the extent of a legal fence as described in ~~81-4-101(1)~~ *81-4-101*. The state district or its members ~~shall not be~~ *are not* liable for damages unless ~~such~~ *the* farming lands are protected by a sufficient fence as described in this section."

Section 2. Section 81-4-101, MCA, is amended to read:

"81-4-101. Legal fences defined. ~~Any one of the following, if not less than 44 inches or more than 48 inches in height, shall be a legal fence in the state of Montana~~ *Except as provided in subsections (2) and (7), a legal fence must be at least 42 inches but not more than 48 inches in height. The following are legal fences in Montana*:

(1) ~~all~~ fences constructed of at least three barbed, horizontal, well-stretched wires, the lowest of which ~~must~~ *is* not ~~be~~ less than 15 inches or more than 18 inches from the ground, securely fastened as nearly equidistant as possible to substantial posts firmly set in the ground or to well-supported leaning posts not exceeding 20 feet apart or 33 feet apart where two or more stays or pickets are used equidistant between posts~~.~~*;*

(2) (a) ~~All~~ corral fences ~~which~~ *that* are used exclusively for the purposes of enclosing stacks ~~which are~~ situated outside of any lawful enclosure ~~shall~~ *and that:*

(i) are not ~~be~~ less than 16 feet from ~~such~~ *the enclosed* stack*;* ~~so enclosed and shall~~

(ii) ~~be~~ *are* substantially built with posts not more than 8 feet distant from each other ~~and not less than~~*; and*

(iii) consist of at least five strands of well-stretched barbed wire ~~and shall not be~~ *not* less than 5 or more than 6 feet high~~.~~*;*

(b) ~~Any kind of~~ a fence ~~equally~~ as effectual for the purpose of a corral fence *as the type described in subsection (2)(a)* ~~may be made in lieu thereof.~~*;*

~~(2)~~*(3)* ~~all~~ fences constructed of any standard woven wire ~~not less than 28 inches in height~~, securely fastened to substantial posts not more than 30 feet apart, ~~provided that~~ *with* two equidistant barbed wires ~~shall be~~ placed above the ~~same~~ *woven wire* ~~at a height of not less than 48 inches from the ground~~;

~~(3)~~*(4)* ~~all~~ other fences made of barbed wire, which ~~shall~~ *must* be as strong and as well calculated to protect enclosures as those ~~above described~~ *in subsections (1) through (3)*;

~~(4)~~*(5)* ~~all~~ fences consisting of four boards, rails, or poles with standing or leaning posts not over 17 feet and 6 inches apart~~, provided that~~ *and*, if leaning posts are used, ~~there shall be~~ a pole or wire fastened securely on the inside of the leg or support of ~~such~~ *each* leaning post;

(6) electric fences consisting of three or more wires; and

~~(5)~~*(7)* ~~all~~ rivers, hedges, mountain ridges and bluffs, or other barriers over or through which it is impossible for stock to pass."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 17, 2015

CHAPTER NO. 250

[HB 564]

AN ACT GENERALLY REVISING STATE LAW RELATED TO THE SOCIAL SECURITY ACT; REVISING DEFINITIONS; UPDATING REFERENCES TO FEDERAL LAW; UPDATING LANGUAGE CONCERNING EXCLUSIONS, REFERENDUMS, RULEMAKING, AGREEMENTS, AND CONTRIBUTIONS; AND AMENDING SECTIONS 19-1-102, 19-1-103, 19-1-104, 19-1-201, 19-1-202, 19-1-302, 19-1-303, 19-1-304, 19-1-401, 19-1-402, 19-1-501, 19-1-502, 19-1-503, 19-1-702, 19-1-704, 19-1-811, 19-1-815, 19-1-822, 19-1-823, 19-1-824, AND 19-1-826, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-1-102, MCA, is amended to read:

"19-1-102. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Administrator" means the employee of the department who is designated as the state social security administrator and is delegated the authority to carry out the requirements of this chapter.

(2) "Department" means the department of administration provided for in 2-15-1001.

~~(1)~~*(3)* "Employee" means an elective or appointive officer or employee of the state or a political subdivision of the state.

~~(2)~~*(4)* "Employee tax" means the tax imposed by section 3101 of the Internal Revenue Code, 26 U.S.C. 3101, as amended.

~~(3)~~*(5)* (a) "Employment" means any service performed by an employee in the employ of the state or any political subdivision of the state for the employer, except:

(i) service that in the absence of an agreement entered into under this chapter would constitute employment as defined in the Social Security Act; or

(ii) service that under the Social Security Act may not be included in an agreement between the state and the secretary of health and human services entered into under this chapter.

(b) Service performed by civilian employees of national guard units is specifically included within the term employment.

(c) Service that under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with section 218(d)(3) of that act is included in the term employment if and when the governor issues, with respect to the service, a certificate to the secretary of health and human services pursuant to 19-1-304.

~~(4)~~*(6)* "Federal Insurance Contributions Act" means subchapters A and B of chapter 21 of the Internal Revenue Code.

~~(5)~~*(7)* "Political subdivision" means an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations, but only if the instrumentality

is a legally constituted entity that is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to the entity employees of the state or subdivision. The term includes special districts or authorities created by the legislature or local governments, including but not limited to school districts and housing authorities.

~~(6)~~*(8)* "Secretary of health and human services" means the secretary of the United States department of health and human services. The term includes any individual to whom the secretary of health and human services has delegated any functions under the Social Security Act with respect to coverage under that act of employees of states and their political subdivisions and, with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom the administrator had delegated any function.

~~(7)~~*(9)* "Social Security Act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", including regulations and requirements issued pursuant to the act, as the act has been and may be amended.

~~(8) "State agency" means the department of administration provided for in 2-15-1001.~~

~~(9)~~*(10)* "Wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that the term does not include that part of remuneration that, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of that act."

Section 2. Section 19-1-103, MCA, is amended to read:

"19-1-103. Exclusions. This chapter ~~shall~~ *does* not apply to ~~and there shall be excluded from the operation thereof all employees of the state and of the political subdivisions thereof operating under~~ the provisions of any retirement plan for firefighters."

Section 3. Section 19-1-104, MCA, is amended to read:

"19-1-104. Retirement systems to be considered separate. (1) Pursuant to section 218(d)(6) of the Social Security Act (42 U.S.C. 418(d)(6)), the public employees' retirement system of the state of Montana is, for the purposes of this chapter, considered a separate retirement system with respect to the state and a separate retirement system with respect to each political subdivision having positions covered by the system.

(2) Pursuant to section 218~~(l)(1)~~*(c)* of the Social Security Act (42 U.S.C. 418~~(l)(1)~~*(c)*), the Montana judges' retirement system, the sheriffs' retirement system, the Montana state game wardens' and peace officers' retirement system, the highway patrol officers' retirement system of the state of Montana, the public employees' retirement system of the state of Montana, and each municipal police retirement fund and each city participating in the municipal police officers' retirement system are, for the purposes of this chapter, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered by those systems."

Section 4. Section 19-1-201, MCA, is amended to read:

"19-1-201. ~~State agency to make~~ *Department may adopt* rules. The ~~state agency shall make and publish such~~ *department may adopt* rules~~, not inconsistent with the provisions of this chapter, as it finds~~ necessary ~~or~~

~~appropriate to the efficient administration of the functions with which it is charged under~~ *to implement the provisions of* this chapter."

Section 5. Section 19-1-202, MCA, is amended to read:

"19-1-202. Costs of administration. All costs ~~allocable to~~ *for* the administration of this chapter must be charged to the ~~state agency~~ *department*."

Section 6. Section 19-1-302, MCA, is amended to read:

"19-1-302. Conduct of referendum. ~~In either case, the~~ *The governor shall designate the department director, who shall direct the administrator to conduct and supervise a referendum. The* referendum ~~shall~~ *must* be conducted ~~and the governor shall designate an agency or individual to supervise its conduct,~~ in accordance with the requirements of section 218(d)(3) of the Social Security Act (42 U.S.C. 418(d)(3)), on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this chapter."

Section 7. Section 19-1-303, MCA, is amended to read:

"19-1-303. Notice of referendum. The notice of referendum required by section 218(d)(3)(C) of the Social Security Act (42 U.S.C. 418(d)(3)(C)) to be given to employees ~~shall~~ *must* contain or ~~shall~~ be accompanied by a statement, in ~~such~~ *the* form and ~~such~~ detail ~~as~~ *that* the ~~agency or individual designated to supervise the referendum~~ *department director, acting through the administrator,* considers necessary and sufficient, informing the employees of the rights ~~which~~ *that* will accrue to them and their dependents and survivors and the liabilities to which they will be subject if their services are included under an agreement under this chapter."

Section 8. Section 19-1-304, MCA, is amended to read:

"19-1-304. Certification *of referendum* by governor. ~~Upon receiving~~ *When the department receives* satisfactory evidence that ~~with respect to a referendum~~ the conditions specified in section 218(d)(3) of the Social Security Act (42 U.S.C. 418(d)(3)) have been met, the governor shall certify the results of the referendum to the secretary of health and human services."

Section 9. Section 19-1-401, MCA, is amended to read:

"19-1-401. Authority for federal-state agreement. The ~~state agency~~ *department director*, with the approval of the governor, may enter~~, on behalf of the state,~~ into an agreement *on behalf of the state* with the secretary of health and human services, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision of the state with respect to services specified in the agreement that constitute "employment", as defined in 19-1-102."

Section 10. Section 19-1-402, MCA, is amended to read:

"19-1-402. Contents of federal-state agreement. The agreement authorized by 19-1-401 may contain provisions relating to coverage, benefits, effective date, and modification of the agreement, administration, and other appropriate provisions as the ~~state agency~~ *department director* and secretary of health and human services agree upon. Except as otherwise required or permitted by the Social Security Act regarding the services to be covered, the agreement must provide that:

(1) benefits will be provided for employees whose services are covered by the agreement and for their dependents and survivors on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) the agreement must be effective with respect to services in employment covered by the agreement performed after a date specified in the agreement, but may not be effective with respect to services performed prior to the first day of the calendar year in which the agreement is entered into or in which the modification of the agreement making it applicable to services is entered into, except that the effective date may be made retroactive to the extent permitted by section 218(e) of the Social Security Act, 42 U.S.C. 418(e);

(3) all services that constitute employment and are performed by employees of the state must be covered by the agreement; and

(4) all services that constitute employment, are performed by employees of a political subdivision of the state, and are covered by a plan that is in conformity with the terms of the agreement and that has been approved by the ~~state agency~~ *department* under Title 19, chapter 1, part 5, must be covered by the agreement."

Section 11. Section 19-1-501, MCA, is amended to read:

"19-1-501. Submission of plan *and agreement*. Each political subdivision of the state shall submit for approval by the ~~state agency~~ *department* a plan *and agreement between the state and the political subdivision* for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of ~~such~~ *the* act, to employees of such political subdivision."

Section 12. Section 19-1-502, MCA, is amended to read:

"19-1-502. Approval of plan *and agreement* by ~~state agency~~ *department*. (1) A plan *and agreement* and any amendment ~~thereof~~ *of the plan and agreement* ~~shall~~ *must* be approved by the ~~state agency~~ *department* if ~~it~~ *the administrator* finds that the plan ~~or the plan as amended~~ *and agreement, or an amendment to the plan and agreement,* ~~is~~ *are* in conformity with ~~such~~ *the department's* requirements ~~as are provided in regulations of the state agency~~.

(2) The ~~state agency~~ *department* may not finally refuse to approve a plan *and agreement* submitted by a political subdivision under 19-1-501 and may not terminate an approved plan *and agreement* without reasonable notice and opportunity for hearing to the *affected* political subdivision ~~affected thereby~~."

Section 13. Section 19-1-503, MCA, is amended to read:

"19-1-503. Required provisions of plan *and agreement*. A plan *and agreement* may not be approved *by the department* unless:

(1) ~~it is~~ *they are* in conformity with the requirements of the Social Security Act and with the agreement entered into under 19-1-401 and 19-1-402;

(2) ~~it provides~~ *they provide* that all services that constitute employment and that are performed by employees of the political subdivisions will be covered by the plan *and agreement*, except that ~~it~~ *the plan and agreement* may exclude services performed by individuals to whom section 218(c)(3)(B) of the Social Security Act, 42 U.S.C. 418(c)(3)(B), is applicable."

Section 14. Section 19-1-702, MCA, is amended to read:

"19-1-702. Contributions by state employees. (1) Every employee of the state whose services are covered by an agreement entered into under 19-1-401 and 19-1-402 must be required to pay, for the period of coverage, contributions with respect to wages equal to the amount of employee tax that would be imposed by the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act. The liability arises in consideration of the employee's retention in the service of the state or entry into service.

(2) The contribution imposed by this section must be collected by deducting the amount of the contribution from wages paid, but failure to make the deduction does not relieve the employee from liability for the contribution.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments or a refund if adjustment is impracticable must be made, without interest, in the manner and at times that the ~~state agency~~ *department* prescribes."

Section 15. Section 19-1-704, MCA, is amended to read:

"19-1-704. Contribution by political subdivision. Each political subdivision ~~as to which~~ *with* a plan ~~has been~~ *and agreement* approved under part 5 of this chapter shall pay, at ~~such~~ *the* time or times ~~as the state agency may prescribe by regulation~~ *prescribed by the department*, contributions with respect to wages ~~(~~, as defined in 19-1-102~~)~~, in the amounts and at the rates specified in the applicable agreement entered into by the ~~state agency~~ *department director on behalf of the state* under 19-1-401 and 19-1-402."

Section 16. Section 19-1-811, MCA, is amended to read:

"19-1-811. Referendum by school district. ~~A~~ *On approval by the board of trustees, a* school district of the state may~~, upon the approval thereof being voted by the board of trustees,~~ conduct and supervise a referendum~~,~~ *or may request that the department conduct and supervise a referendum. The referendum must be conducted* pursuant to section 218 of the federal Social Security Act (42 U.S.C. 418)~~,~~ among the members of the staff and teachers of the school or schools under the jurisdiction of the board of trustees. If the majority of votes cast in the referendum ~~indicates~~ *indicate* that the staff and teachers approve *social security coverage*, then the board of trustees shall certify to the department ~~of administration~~ that the conditions for ~~coverage by~~ social security *coverage*, required by section 218 of the Social Security Act, have been complied with."

Section 17. Section 19-1-815, MCA, is amended to read:

"19-1-815. Merger of reporting entities. If the approval of referenda at different times results in the establishment of two separate social security reporting entities for a high school district and an elementary school district and the high school building is located in the elementary school district, the ~~state agency~~ *department* shall, upon request of the boards of trustees in both districts, merge the two reporting entities to form a single reporting entity if the elementary school district and high school district:

(1) have boards of trustees of which a majority of each board is composed of the same persons;

(2) are administered by the same executive officer; and

(3) have payroll calculations made in the same payroll application."

Section 18. Section 19-1-822, MCA, is amended to read:

"19-1-822. Referendum — institution of higher education. On request of the president of an institution, the governor shall ~~designate an agency or individual~~ *direct the department* to give notice of and supervise a referendum in the retirement system for that institution in compliance with the requirements prescribed by section 218 of the Social Security Act (42 U.S.C. 418)."

Section 19. Section 19-1-823, MCA, is amended to read:

"19-1-823. Certification by governor. ~~If the~~ *On the department's notification that a* majority of votes ~~cast~~ in the referendum ~~indicates that the majority of voters desire it~~ *were cast in favor of participation in social security*,

the governor*, through the department,* shall certify to the secretary of health and human services that the conditions set forth in section 218 of the Social Security Act (42 U.S.C. 418) have been complied with in respect to the retirement system voting in the referendum."

Section 20. Section 19-1-824, MCA, is amended to read:

"19-1-824. Federal-state agreement. ~~Upon~~ *On* certification, the governor shall ~~designate an official~~ *direct the department director* to enter into ~~an agreement or~~ a modification ~~or supplement~~ to ~~an~~ *the* existing agreement ~~or both a modification and a supplement~~ with the appropriate officers of the federal government, pursuant to section 218 of the Social Security Act (42 U.S.C. 418), to secure coverage ~~thereunder~~ for the retirement system with respect to which certification has been made. An agreement may be made retroactive to the extent permissible under the Social Security Act."

Section 21. Section 19-1-826, MCA, is amended to read:

"19-1-826. Changes in federal law. In the event that any relevant provisions of federal law are amended or superseded, then the provisions ~~hereof~~ *of this part* ~~which~~ *that* relate to ~~such~~ *the* law ~~shall~~ *must* be applied to the amended law or the superseding law."

Approved April 17, 2015

CHAPTER NO. 251

[SB 48]

AN ACT REQUIRING ELECTRONIC REPORTING OF EPHEDRINE OR PSEUDOEPHEDRINE SALES; PROVIDING FOR THE ESTABLISHMENT OF AND PARTICIPATION IN AN ELECTRONIC RECORDKEEPING AND MONITORING SYSTEM; PROVIDING IMMUNITY; AMENDING SECTIONS 50-32-501 AND 50-32-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-32-501, MCA, is amended to read:

"50-32-501. Restricted possession, purchase, or other transfer of ephedrine or pseudoephedrine — exceptions — penalties. (1) Except as provided in subsection (2), a person may not purchase, receive, or otherwise acquire more than 9 grams *within any 30-day period or more than 3.6 grams per day* of any product, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, any of their salts or optical isomers, or salts of *their* optical isomers ~~within any 30-day period~~.

(2) This section does not apply to any quantity of a product, mixture, or preparation dispensed pursuant to a valid prescription or as provided in 50-32-502.

(3) Possession of more than 9 grams of a drug product containing any detectable quantity of ephedrine~~,~~ *or* pseudoephedrine, their salts or optical isomers, or salts of *their* optical isomers constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance.

(4) The rebuttable presumption in subsection (3) does not apply to:

(a) a retail distributor of drug products;

(b) a wholesale drug distributor, or its agents, licensed by the board of pharmacy;

(c) a manufacturer of drug products or its agents;

(d) a pharmacist licensed by the board of pharmacy; or

(e) a licensed health care professional possessing the drug products in the course of carrying out the profession.

(5) A person who knowingly or negligently violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not less than $100 or more than $500 and by imprisonment in the county jail for not more than 1 year."

Section 2. Section 50-32-502, MCA, is amended to read:

"50-32-502. Restricted sale and access to ephedrine or pseudoephedrine products — exceptions — penalties. (1) The retail sale of a product that contains any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of *their* optical isomers may be made only in a pharmacy licensed pursuant to Title 37, chapter 7, or a retail establishment that is certified by the department of justice pursuant to subsection (2).

(2) (a) If there is not a licensed community pharmacy within a county, then a retail establishment may apply to the department of justice for certification as an establishment that is allowed to sell products that contain any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of *their* optical isomers.

(b) The department of justice shall adopt rules to establish criteria for the certification of retail establishments with the intent to limit the available supply of ephedrine and pseudoephedrine to prevent the manufacture of methamphetamine.

(c) The department of justice may certify a retail establishment based on the criteria adopted by rule.

(3) Except as provided in subsection (5), a licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses, sells, or distributes products containing ephedrine or pseudoephedrine shall:

(a) display the products containing ephedrine or pseudoephedrine behind the store counter in an area that is not accessible to customers or in a locked case so that a customer is required to ask an employee of the licensed pharmacy or certified retail establishment for assistance in purchasing the product;

(b) limit sales to packages containing no more than a total of ~~9 grams~~ *3.6 grams base weight*;

(c) require the person purchasing, receiving, or otherwise acquiring any product, mixture, or preparation containing ephedrine or pseudoephedrine to produce a *valid* driver's license or other form of *valid government-issued* photo identification and sign a record of sale or acquisition that includes the *type of identification presented, including the identification number and issuing governmental entity, the time and* date of the transaction, the name *and address* of the person purchasing or acquiring the ephedrine or pseudoephedrine, and the ~~number of grams of the product, mixture, or preparation purchased or acquired~~ *name of the ephedrine or pseudoephedrine product sold, including the number of grams contained in the product*;

(d) require the purchaser to sign the record of sale or acquisition, acknowledging:

(i) that the record may be kept in written or electronic form;

(ii) an understanding of the applicable sales limit; and

(iii) that providing false statements or misrepresentations may subject the purchaser to criminal penalties under 18 U.S.C. 1001; and

~~(d)~~*(e)* take action as necessary to ensure that a person does not purchase or acquire more than ~~9 grams~~ *3.6 grams per day* of ephedrine or pseudoephedrine from the licensed pharmacy or certified retail establishment provided for in subsection (1) *or more than 9 grams* in any 30-day period. *The limits apply to the total amount of base ephedrine or pseudoephedrine contained in the products and not to the overall weight of the products.*

(4) A licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses, sells, or distributes products containing ephedrine or pseudoephedrine shall maintain all records made under subsection (3) ~~in a secure, centralized location~~ *and enter the records into the recordkeeping and monitoring system provided for in [section 3].* Each record must be maintained by the licensed pharmacy or certified retail establishment provided for in subsection (1) for 2 years. ~~The licensed pharmacy or certified retail establishment provided for in subsection (1) shall provide access to sales records by law enforcement officials.~~

(5) This section does not apply to:

(a) any quantity of a product, mixture, or preparation dispensed pursuant to a valid prescription;

(b) ~~products containing ephedrine or pseudoephedrine that are in liquid, liquid capsule, or gel capsule form if ephedrine or pseudoephedrine is not the only active ingredient~~ *the sale of a single package containing no more than 60 milligrams of ephedrine or pseudoephedrine to an individual*;

(c) a product that the board, upon application by a manufacturer, exempts from this section by rule because the product has been formulated in a manner as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors*; or*

(d) any product or precursor dispensed pursuant to a prescription.

(6) *(a) A person who negligently violates any provision of this section is punishable by a fine of not more than $500.*

(b) A person who knowingly ~~or negligently~~ violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not less than $100 or more than $500 and by imprisonment in the county jail for not more than ~~1 year~~ *10 days*.

(7) This section supersedes and preempts any rule, regulation, code, or ordinance of any political subdivision or other unit of local government that attempts to regulate the sale or purchase of compounds, mixtures, or preparations containing any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of their optical isomers."

Section 3. Electronic recordkeeping and monitoring system. (1) The department of justice shall provide for the state's participation in a real-time electronic recordkeeping and monitoring system for the sale of ephedrine or pseudoephedrine. The system must:

(a) be approved by the department of justice and provided at no charge to the state, law enforcement, or participating pharmacies and certified retail establishments;

(b) provide at no charge to participating pharmacies and certified retail establishments appropriate training, 24-hour online support, and a toll-free telephone help line that is staffed 24 hours a day;

(c) be able to communicate in real time with similar systems operated in other states and the District of Columbia and similar systems containing information submitted by more than one state;

(d) comply with information exchange standards adopted by the national information exchange model;

(e) include a stop sales alert that:

(i) provides notification that completion of a sale would result in the purchaser violating the quantity limits set forth in this part;

(ii) includes an override function that may be used by a pharmacy or certified retail establishment under the circumstances set forth in subsection (2); and

(iii) records each instance in which the override function is utilized;

(f) record the following:

(i) the date and time of a transaction;

(ii) the name, address, date of birth, and photo identification number of the purchaser, the type of identification used, and the issuing governmental entity;

(iii) the number of packages purchased, the total number of grams of ephedrine or pseudoephedrine per package, and the name of the compound, mixture, or preparation containing ephedrine or pseudoephedrine; and

(iv) the signature of the purchaser or a unique number connecting the transaction to a paper signature retained at the retail premises;

(g) ensure that submitted data is retained within the system for at least 2 years from the date of submission; and

(h) be accessible by law enforcement.

(2) (a) A pharmacy or certified retail establishment may not complete a sale if the system generates a stop sales alert unless the individual dispensing the ephedrine, pseudoephedrine, or related compound has a reasonable fear of imminent bodily harm if the sale is not completed.

(b) In the event of a mechanical or electronic interruption of the system, the pharmacy or certified retail establishment shall maintain a written log of sales of ephedrine and pseudoephedrine until the system is restored. The information written in the log must be transmitted to the system as soon as practicable after the system is restored.

(3) The following entities may not be required to participate in the electronic system and may not be required to maintain a written log:

(a) licensed manufacturers that manufacture and lawfully distribute products in the channels of commerce;

(b) wholesalers that lawfully distribute products in the channels of commerce;

(c) inpatient pharmacies of health care facilities licensed in this state;

(d) licensed long-term health care facilities;

(e) government-operated health care clinics, departments, or centers;

(f) physicians who dispense drugs pursuant to state law;

(g) pharmacies located in correctional facilities; and

(h) government-operated or industry-operated medical facilities serving the employees of the state or local or federal government.

(4) The department of justice, a law enforcement agency of the state, or a federal agency conducting a criminal investigation involving the manufacture of methamphetamine consistent with state or federal law may access data,

records, and reports regarding the sale of ephedrine or pseudoephedrine. In addition, the information may be accessed if relevant to proceedings in a court, investigatory grand jury, or special grand jury.

(5) All data, records, and reports related to the sale of ephedrine or pseudoephedrine to retail customers and any abstracts of the data, records, and reports that are in the possession of the department of justice pursuant to this section are confidential and exempt from disclosure under Title 2, chapter 6.

(6) An entity operating the system or a pharmacy or certified retail establishment that sells a product containing ephedrine or pseudoephedrine may not use or disclose information collected or contained in the system or a written log for any purpose other than to:

(a) ensure compliance with this section or the federal Combat Methamphetamine Epidemic Act of 2005, Public Law 109-177;

(b) comply with the United States government or its political subdivision for law enforcement purposes under state or federal law; or

(c) facilitate a product recall necessary to protect the public health and safety.

(7) (a) A pharmacy or certified retail establishment that releases in good faith confidential information to federal, state, or local law enforcement or to a person acting on the behalf of law enforcement or that utilizes the system in accordance with this section is immune from civil liability for the release of the information or for acts or omissions in utilizing the system under this section unless the release or the act or omission constitutes gross negligence or intentional, wanton, or willful misconduct.

(b) The civil immunity provisions of subsection (7)(a) do not apply to a person employed by or an entity operated by the state or a political subdivision of the state.

Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 50, chapter 32, part 5, and the provisions of Title 50, chapter 32, part 5, apply to [section 3].

Section 5. Effective date. [This act] is effective January 1, 2016.

Approved April 17, 2015

CHAPTER NO. 252

[SB 150]

AN ACT INCREASING THE AMOUNT OF UNIVERSAL SYSTEM BENEFITS FUNDS USED BY A PUBLIC UTILITY FOR LOW-INCOME ENERGY AND WEATHERIZATION ASSISTANCE; CLARIFYING WAYS A PUBLIC UTILITY MAY PROVIDE ASSISTANCE; AMENDING SECTIONS 69-8-402 AND 69-8-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's utility shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) *(a)* A *cooperative* utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the *cooperative* utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(b) A public utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 50% of the public utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

~~(a)~~*(c)* A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities. *Internal programs and activities may include providing low-income energy and weatherization assistance on Indian reservations.*

~~(b)~~*(d)* If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

(b) Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall review the universal system benefits programs and, if necessary, submit recommendations regarding these programs to the legislature.

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

Section 2. Section 69-8-412, MCA, is amended to read:

"69-8-412. Funds established — fund administrators designated — purpose of funds — department rulemaking authority to administer funds. (1) If, pursuant to 69-8-402(2)(f) or ~~(5)(b)~~ *(5)(d)*, there is any positive difference between credits and the annual funding requirement, the department of revenue shall establish one or both of the following funds:

(a) a fund to provide for universal system benefits programs other than low-income energy assistance. The department of environmental quality shall administer this fund.

(b) a fund to provide universal low-income energy assistance. The department of public health and human services shall administer this fund.

(2) The purpose of these funds is to fund universal system benefits programs.

(3) The department of environmental quality and the department of public health and human services shall expend the money in each representative fund on universal system benefits programs in the utility service territory from which the money was received.

(4) The department of environmental quality and the department of public health and human services may adopt rules that administer and expend the money in each respective fund based on an annual assessment of identified funding needs in the utility service territory from which the money was received. In assessing the funding needs, the departments shall solicit utility and public comment from the utility service territory from which the money was received. The annual assessment must also take into account existing utility and large customer universal system benefits programs expenditures."

Section 3. Coordination instruction. If both Senate Bill No. 11 and [this act] are passed and approved and if both amend 69-8-402, then the sections amending 69-8-402 are void and 69-8-402 must be amended as follows:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) ~~Beginning~~ *Except as provided in subsection (11), beginning* January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding

level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's utility shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) *(a)* A *cooperative* utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the *cooperative* utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(b) Except as provided in subsection (11), a public utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 50% of the public utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

~~(a)~~*(c)* A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

~~(b)~~*(d)* If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) ~~A~~ *Except as provided in subsection (11), a* public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

(b) Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall review the universal system benefits programs and, if necessary, submit recommendations regarding these programs to the legislature.

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance.

(11) A public utility with fewer than 50 customers is exempt from the requirements of this section."

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to universal system benefits activities beginning on or after January 1, 2015.

Approved April 17, 2015

CHAPTER NO. 253

[HB 284]

AN ACT PROMOTING SAFE SCHOOLS AND CREATING THE BULLY-FREE MONTANA ACT; PROVIDING DEFINITIONS; PROHIBITING BULLYING OF STUDENTS; AND CLARIFYING REDRESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 4] may be cited as the "Bully-Free Montana Act".

Section 2. Definitions. (1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student that is persistent, severe, or repeated and that:

(a) causes a student physical harm, damages a student's property, or places a student in reasonable fear of harm to the student or the student's property;

(b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; or

(c) substantially and materially disrupts the orderly operation of a school.

(2) The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.

Section 3. Bullying of student prohibited. Bullying of a student enrolled in a public K-12 school by another student or an employee is prohibited.

Section 4. Enforcement — exhaustion of administrative remedies. A person alleging a violation of [sections 1 through 4] may seek redress under any available law, either civil or criminal, after exhausting all administrative remedies.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 5, and the provisions of Title 20, chapter 5, apply to [sections 1 through 4].

Approved April 21, 2015

CHAPTER NO. 254

[HB 259]

AN ACT CLARIFYING CERTAIN REQUIREMENTS FOR AUTOMOBILE DEALERS, WHOLESALERS, AND AUCTIONS FOR MAINTAINING VEHICLE OWNERSHIP RECORDS; AUTHORIZING AUTOMOBILE DEALERS, WHOLESALERS, AND AUCTIONS TO MAINTAIN A PHOTOCOPY, ELECTRONIC, OR DIGITAL RECORD OF VEHICLE OWNERSHIP; AND AMENDING SECTION 61-4-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-4-104, MCA, is amended to read:

"61-4-104. Record of purchase or sale. (1) (a) A dealer, wholesaler, or auto auction licensed under this part shall keep*:*

(i) a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles*;* and

(ii) for each used vehicle, a description of the ~~vehicles, together with~~ *vehicle,* the date of purchase, sale, or consignment *of the vehicle,* and the name and address of:

~~(i)~~*(A)* the person from whom the dealer or wholesaler acquired the vehicle's ownership or, if consigned, possessory interest in the vehicle;

~~(ii)~~*(B)* the person to whom the dealer, wholesaler, or auto auction assigned the vehicle; and

~~(iii)~~*(C)* a secured party with a perfected security interest in the vehicle to which the dealer's, wholesaler's, or auto auction's interest is subordinate, if any.

(b) If the vehicle is a trailer, semitrailer, pole trailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the vehicle.

~~(b)~~*(c)* The vehicle description must also include the vehicle identification number ~~and engine number~~, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. ~~In the case of a trailer, semitrailer, pole trailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the trailer, semitrailer, pole trailer, or special mobile equipment.~~

(2) *(a)* ~~The~~ *Except as provided in subsection (2)(b), a* dealer, wholesaler, or auto auction must also have ~~an~~ *the actual or a readily accessible photocopy, electronic copy, or digital copy of the actual* assigned certificate of ownership*,* ~~or~~ certificate of title*, or manufacturer's certificate of origin* from the owner of ~~the motor~~ *each* vehicle~~, power sports vehicle, or trailer~~ *in which the dealer, wholesaler, or auto auction acquires a property interest that transfers ownership of the vehicle* to the dealer, wholesaler, or auto auction from the time the ~~motor~~ vehicle is delivered to the dealer, wholesaler, or auto auction until it has been disposed of by the dealer, wholesaler, or auto auction.

(b) A dealer may offer for sale or may sell or exchange a vehicle without having the assigned certificate of ownership, certificate of title, or manufacturer's certificate of origin if:

(i) The dealer has applied for the title as provided in Title 61, chapter 3, part 2; or

(ii) the vehicle is financed by the dealer as inventory through a financial institution, the financial institution holds the certificate of ownership, certificate of title, or manufacturer's certificate of origin as collateral, and the dealer has a readily accessible photocopy, electronic copy, or digital copy of the certificate of ownership, certificate of title, or manufacturer's certificate of origin.

(3) It is a violation of this part for a dealer, wholesaler, or auto auction to fail to*:*

(a) take assignment of ~~all certificates~~ *the certificate* of ownership, ~~certificates~~ *certificate* of title, or manufacturer's ~~certificates~~ *certificate* of origin for ~~motor vehicles~~ *a vehicle* acquired by the ~~licensee~~ *dealer, wholesaler, or auto auction;* or ~~to fail to~~

(b) assign the certificate of ownership, certificate of title, or manufacturer's certificate of origin for ~~motor vehicles~~ *any vehicle* sold *in which the dealer, wholesaler, or auto auction has a property interest*.

~~(3)~~*(4) (a)* ~~All~~ *Except as provided in subsection (4)(b), all* records required to be kept in accordance with this section~~, in addition to the required retention of~~ *and the* odometer disclosure information *required to be retained* under 61-3-206(4)~~,~~ must be physically located and maintained *at or readily accessible* within the building referred to in 61-4-101.

(b) A dealer, wholesaler, or auto auction that does not maintain the actual certificate of ownership, certificate of title, or manufacturer's certificate of origin at the building referred to in 61-4-101 shall maintain a readily accessible record of the certificate of ownership, certificate of title, or manufacturer's certificate of origin at the building.

(c) For the purposes of this section, "readily accessible" means available in paper form or in an electronic or digital format.

(5) An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter."

Approved April 22, 2015

CHAPTER NO. 255

[HB 280]

AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATED TO BICYCLE TRAFFIC; REVISING THE DEFINITION OF "BICYCLE"; PROVIDING A DEFINITION OF "ELECTRICALLY ASSISTED BICYCLE"; ALLOWING BICYCLISTS TO OVERTAKE AND PASS ON THE RIGHT SHOULDER OF A ROADWAY; PROVIDING CIRCUMSTANCES WHEN A FASTER VEHICLE MAY PASS A BICYCLE WITHIN A NO-PASSING ZONE; REVISING WHERE BICYCLES MAY BE RIDDEN ON ROADWAYS; REVISING THE REQUIREMENTS FOR NIGHTTIME VISIBILITY AND BRAKING FOR BICYCLES; AND AMENDING SECTIONS 61-8-102, 61-8-324, 61-8-326, 61-8-604, 61-8-605, 61-8-606, AND 61-8-607, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-102, MCA, is amended to read:

"61-8-102. Uniformity of interpretation — definitions. (1) Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title 7, chapter 33, an ambulance, ~~and~~ *or* an emergency vehicle designated or authorized by the department.

(b) "Bicycle" means~~:~~

~~(i)~~ a vehicle propelled solely by human power ~~upon~~ *on* which any person may ride ~~and that has two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position~~*, irrespective of the number of wheels*, except scooters*, wheelchairs,* and similar devices~~; or~~

~~(ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement may not exceed 3.05 cubic inches, 50 centimeters, regardless of the number of chambers in the power source. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour, 48.28 kilometers an hour, on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged~~*. The term includes an electrically assisted bicycle.*

(c) "Bicycle trailer" means a device with one or more wheels that is designed to be towed by a bicycle.

~~(c)~~*(d)* "Business district" means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

~~(d)~~*(e)* "Controlled-access highway" means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway.

~~(e)~~*(f)* "Crosswalk" means:

(i) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; *or*

(ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

(g) "Electrically assisted bicycle" means a vehicle on which a person may ride that has two tandem wheels and an electric motor capable of propelling the vehicle and a rider who weighs 170 pounds no faster than 20 miles an hour on a paved, level surface.

~~(f)~~*(h)* "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic ~~upon~~ *on* a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a uniformed traffic enforcement officer exercising the officer's duty as a

result of a planned vehicular traffic hazard, must be equipped as required by the rules of the department of transportation.

~~(g)~~*(i)* "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use.

~~(h)~~*(j)* "Ignition interlock device" means ignition equipment that:

(i) analyzes the breath to determine blood alcohol concentration;

(ii) is approved by the department pursuant to 61-8-441; and

(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage.

~~(i)~~*(k)* (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling ~~upon~~ *on* different highways joining at any other angle may come in conflict.

(ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection.

(l) "Laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic.

~~(j)~~*(m)* "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

~~(k)~~*(n)* "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101(9)(b).

~~(l)~~*(o)* "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

~~(m)~~*(p)* "Pedestrian" means any person on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

~~(n)~~*(q)* "Police vehicle" means a vehicle used in the service of any law enforcement agency.

~~(o)~~*(r)* "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~(p)~~*(s)* "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or residences and buildings in use for business.

~~(q)~~*(t)* "Right-of-way" means the privilege of the immediate use of the roadway.

(u) "Roadway" means the portion of a highway that is improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

~~(r)~~*(v)* "School bus" has the meaning provided in 20-10-101.

~~(s)~~*(w)* "Sidewalk" means ~~that~~ *the* portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians.

~~(t)~~*(x)* "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

~~(u)~~*(y)* "Urban district" means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more."

Section 2. Section 61-8-324, MCA, is amended to read:

"61-8-324. Overtaking vehicle on right. (1) The operator of a vehicle may overtake and pass ~~upon~~ *on* the right of another vehicle only under the following conditions:

(a) when the vehicle overtaken is making or about to make a left turn; or

(b) ~~upon~~ *on* a roadway with unobstructed pavement of sufficient width for two or more lanes of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The operator of a vehicle may overtake and pass another vehicle ~~upon~~ *on* the right only under conditions permitting safe movement. The movement may not be made by driving off the pavement or main-traveled portion of the roadway*, except that a person operating a bicycle may pass on the shoulder, provided the movement may be done in safety*."

Section 3. Section 61-8-326, MCA, is amended to read:

"61-8-326. No-passing zones. (1) The department of transportation and local authorities may determine those portions of a highway in their respective jurisdictions where overtaking and passing or driving to the left *side* of the center of the roadway would be especially hazardous, and they may by official traffic control devices on the highway indicate the beginning and end of these zones. When the official traffic control devices are in place and clearly visible to an ordinarily observant person, an operator of a vehicle shall obey the directions of those devices.

(2) ~~Where~~ *(a) Except as provided in subsection (b), where* official traffic control devices are in place to define a no-passing zone as set forth in subsection (1) an operator of a vehicle may not drive on the left side of the *center of the* roadway within the no-passing zone or on the left side of a pavement striping designed to mark the no-passing zone throughout its length.

(b) Subsection (2)(a) does not apply to the operator of a faster vehicle passing a bicycle when:

(i) the bicycle is traveling at less than half the posted speed limit;

(ii) the faster vehicle is capable of overtaking and passing the bicycle without exceeding the posted speed limit; and

(iii) there is sufficient clear sight distance to the left side of the center of the roadway to meet the overtaking and passing requirements in 61-8-325.

(3) The provisions of this section do not apply under the conditions provided in 61-8-321(1) or to the operator of a vehicle that is turning left into or from an alley, private road, or driveway."

Section 4. Section 61-8-604, MCA, is amended to read:

"61-8-604. Clinging to vehicles. A person riding ~~upon~~ *on* any bicycle, coaster, roller skates, sled, or toy vehicle may not attach the conveyance or be

attached to any vehicle ~~upon~~ *on* a roadway, but a bicycle trailer ~~or bicycle semitrailer~~ may be attached to a bicycle ~~if that trailer or semitrailer has been designed for attachment~~."

Section 5. Section 61-8-605, MCA, is amended to read:

"61-8-605. Riding on roadways. ~~(1) As used in this section:~~

~~(a) "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic; and~~

~~(b) "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.~~

~~(2)~~*(1)* A person operating a bicycle ~~upon~~ *on* a roadway at less than the normal speed of traffic ~~at the time and place and under the conditions then existing~~ shall ride ~~as near to the right side~~ *in the right-hand lane* of the roadway*,* ~~as practicable except when~~ *subject to the following provisions*:

(a) If the right-hand lane is wide enough to be safely shared with overtaking vehicles, a bicyclist shall ride far enough to the right as judged safe by the bicyclist to facilitate the movement of overtaking vehicles unless other conditions make it unsafe to do so.

(b) A bicyclist may use a lane other than the right-hand lane when:

~~(a)~~*(i)* overtaking and passing ~~another~~ *a slower* vehicle ~~proceeding in the same direction~~;

~~(b)~~*(ii)* preparing for a left turn at an intersection or into a private road or driveway;

(iii) the right-hand lane is a dedicated right-turn lane and the bicyclist does not intend to turn right; or

~~(c)~~*(iv) it is* necessary to avoid a condition that makes it unsafe to ~~continue along the right side~~ *ride in the right-hand lane* of the roadway~~, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane~~.

~~(3)~~*(2)* A person operating a bicycle ~~upon~~ *on* a one-way ~~highway~~ *roadway* with two or more marked traffic lanes may ride as close to the left side of the roadway as ~~practicable~~ *judged safe by the bicyclist*.

~~(4)~~*(3)* Persons riding bicycles ~~upon~~ *on* a roadway shall ride in single file except when:

(a) riding on paths or parts of roadways set aside for the exclusive use of bicycles;

(b) overtaking and passing another bicycle;

(c) riding on a paved shoulder or in a parking lane, in which case the persons may ride two abreast; or

(d) riding within a single lane on a laned roadway with at least two lanes in each direction, in which case the persons may ride two abreast *only* if they do not impede the normal and reasonable movement of traffic more than they would otherwise impede traffic by riding single file and in accordance with the provisions of this chapter.

~~(5) A bicycle, as defined in 61-8-102(2)(b)(ii), is excluded from the provisions of subsections (2) and (3).~~

(4) A bicyclist is not expected or required to ride:

(a) over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or

(b) without a reasonable margin of safety on the right side of the roadway."

Section 6. Section 61-8-606, MCA, is amended to read:

"61-8-606. Carrying articles. ~~No~~ *A* person operating a bicycle ~~shall~~ *may not* carry any package, bundle, or article ~~which~~ *that* prevents the ~~driver~~ *person* from keeping at least one hand ~~upon~~ *on* the ~~handle bars~~ *handlebars*."

Section 7. Section 61-8-607, MCA, is amended to read:

"61-8-607. Lamps and other equipment on bicycles. (1) Every bicycle when in use at *dawn, dusk, or* nighttime ~~shall~~ *must* be equipped with*:*

(a) a lamp on the front ~~which shall emit~~ *emitting* a white light visible from a distance of at least 500 feet to the front. *In lieu of a lamp affixed to the bicycle, a bicyclist may use a lamp with equal intensity and visibility affixed to the cyclist's helmet and facing forward.*

(b) facing the rear, either a lamp emitting a red light visible from a distance of at least 500 feet to the rear or a red reflector visible from a distance of at least 500 feet to the rear when illuminated by low-beam motor vehicle headlamps; and

(c) reflective material large and reflective enough to be visible from the left and right sides from a distance of at least 500 feet when illuminated by low-beam motor vehicle headlamps. ~~A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to rear-facing reflectors required by this section.~~

~~(2) Every bicycle when in use at nighttime shall be equipped with an essentially colorless front-facing reflector, essentially colorless or amber pedal reflectors, and a red rear-facing reflector. Pedal reflectors shall be mounted on the front and back of each pedal.~~

~~(3) Every bicycle when in use at nighttime shall be equipped with either tires with retroflective sidewalls or reflectors mounted on the spokes of each wheel. Spoke mounted reflectors shall be within 76 millimeters (3 inches) of the inside of the rim and shall be visible on each side of the wheel. The reflectors on the front wheel shall be essentially colorless or amber and the reflectors on the rear wheel shall be amber or red.~~

~~(4) Reflectors required by this section shall be of a type approved by the department.~~

~~(5)~~*(2)* Every bicycle ~~shall~~ *must* be equipped with a brake ~~which will enable~~ *enabling* the operator to ~~make the braked wheels skid~~ *stop the bicycle within no more than 25 feet from a speed of 10 miles an hour* on dry, level, clean pavement.

~~(6) Every bicycle is encouraged to be equipped with a flag clearly visible from the rear and suspended not less than 6 feet above the roadway when the bicycle is standing upright. The flag shall be fluorescent orange in color.~~"

Approved April 22, 2015

CHAPTER NO. 256

[HB 318]

AN ACT REQUIRING COVERAGE OF CERTAIN THERAPIES FOR CHILDREN WITH DOWN SYNDROME; AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Coverage of therapies for Down syndrome. (1) Health insurance coverage sold in the group or individual market in this state must provide coverage for diagnosis and treatment of Down syndrome for a covered child 18 years of age or younger.

(2) Coverage under this section must include:

(a) habilitative or rehabilitative care that is prescribed, provided, or ordered by a licensed physician, including but not limited to professional, counseling, and guidance services and treatment programs that are medically necessary to develop and restore, to the maximum extent practicable, the functioning of the covered child; and

(b) medically necessary therapeutic care that is provided as follows:

(i) up to 104 sessions per year with a speech-language pathologist licensed pursuant to Title 37;

(ii) up to 52 sessions per year with a physical therapist licensed pursuant to Title 37; and

(iii) up to 52 sessions per year with an occupational therapist licensed pursuant to Title 37.

(3) Habilitative and rehabilitative care includes medically necessary interactive therapies derived from evidence-based research, including intensive intervention programs and early intensive behavioral intervention.

(4) Benefits provided under this section may not be construed as limiting physical health benefits that are otherwise available to the covered child.

(5) (a) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions.

(b) Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical care covered under the plan may not be imposed on the coverage for Down syndrome therapies provided for under this section.

(6) When treatment is expected to require continued services, the insurer may request that the treating physician provide a treatment plan consisting of diagnosis, proposed treatment by type and frequency, the anticipated duration of treatment, the anticipated outcomes stated as goals, and the reasons the treatment is medically necessary. The treatment plan must be based on evidence-based screening criteria. The insurer may ask that the treatment plan be updated every 6 months.

(7) As used in this section, "medically necessary" means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician licensed in this state and that will or is reasonably expected to:

(a) reduce or improve the physical, mental, or developmental effects of Down syndrome; or

(b) assist in achieving maximum functional capacity in performing daily activities, taking into account both the functional capacity of the recipient and the functional capacities that are appropriate for a child of the same age.

(8) This section applies to the state employee group insurance program, the university system employee group insurance program, any employee group insurance program of a city, town, school district, or other political subdivision of this state, and any self-funded multiple employer welfare arrangement that is not regulated by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(9) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies.

Section 2. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for*:*

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131*; and*

(b) therapies for Down syndrome, as provided in [section 1].

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the immunization practice advisory committee of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and

(ii) "well-child care" means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract's or plan's cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

(b) Coverage must include a $250 benefit for a person each year for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes.

(c) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an

alternative benefit of substantially equal value, in which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

(e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) The state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as are available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits plans are ceasing to offer coverage in accordance with applicable state law.

(14) The state employee group benefit plans and the Montana university system group benefits plans must comply with the provisions of 33-22-153. (See compiler's comments for contingent termination of certain text.)"

Section 3. Section 33-31-111, MCA, is amended to read:

"33-31-111. Statutory construction and relationship to other laws. (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under Title 33, chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, part 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-401, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-137, 33-22-138, *[section 1],* 33-22-141, 33-22-142, 33-22-152, 33-22-153, 33-22-156 through 33-22-159, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, 33-22-706[, and Title 33, chapter 40, part 1,] apply to health maintenance organizations. (Bracketed language in (7) terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)"

Section 4. Section 33-35-306, MCA, is amended to read:

"33-35-306. Application of insurance code to arrangements. (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions:

(a) 33-1-111;

(b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

(c) Title 33, chapter 1, part 7;

(d) 33-3-308;

(e) Title 33, chapter 18, except 33-18-242;

(f) Title 33, chapter 19;

(g) 33-22-107, 33-22-131, 33-22-134, 33-22-135, 33-22-138, *[section 1],* 33-22-141, 33-22-142, 33-22-152, and 33-22-153;

(h) 33-22-512, 33-22-515, 33-22-525, and 33-22-526; and

(i) Title 33, chapter 40, part 1.

(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been

issued a certificate of authority that has not been revoked. (Subsection (1)(i) terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)"

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective January 1, 2016.

Section 7. Applicability. [This act] applies to health insurance plans and policies issued or renewed on or after January 1, 2016.

Approved April 22, 2015

CHAPTER NO. 257

[HB 460]

AN ACT DESIGNATING THE MONTANA VETERANS MEMORIAL IN GREAT FALLS, MONTANA, AS A MONTANA VETERANS' MEMORIAL.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana veterans' memorial. (1) The Montana veterans memorial in Great Falls, Montana, is officially designated as a Montana veterans' memorial.

(2) The department of commerce and the department of transportation shall identify the Montana veterans memorial in Great Falls, Montana, on official state maps as a Montana veterans' memorial.

(3) The Montana veterans memorial in Great Falls, Montana, recognizes and honors all veterans, men, women, and canine service members, living or deceased, from all branches of the U.S. armed forces who served in peacetime or in war.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 5, and the provisions of Title 1, chapter 1, part 5, apply to [section 1].

Approved April 22, 2015

CHAPTER NO. 258

[SB 238]

AN ACT ESTABLISHING A DEFERRED RETIREMENT OPTION PLAN IN THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM; SPECIFYING ELIGIBILITY AND PARTICIPATION CRITERIA; SPECIFYING CONTRIBUTIONS AND THE INTEREST RATE TO BE CREDITED; PROVIDING FOR SURVIVORSHIP BENEFITS AND DISTRIBUTION OPTIONS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 19-6-710, MCA; AND PROVIDING A CONTINGENT VOIDNESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 8] may be cited as the "deferred retirement option plan" or "DROP".

Section 2. Definitions. Unless the context requires otherwise, as used in [sections 1 through 8], the following definitions apply:

(1) "DROP" means the deferred retirement option plan established pursuant to this part.

(2) "DROP account" means the member's accumulated monthly DROP accruals, plus interest.

(3) "DROP benefit" means the lump-sum benefit calculated and distributed as provided in this part.

(4) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP subject to the provisions of [section 4].

(5) "Monthly DROP accrual" means the amount credited monthly to a participant's DROP account under [section 5].

(6) "Participant" means a member of the retirement system who has elected to participate in the DROP pursuant to this part.

Section 3. Deferred retirement option plan established — rulemaking. (1) The board shall establish a DROP for eligible members of the retirement system who elect to participate.

(2) The board shall administer the DROP in compliance with the Internal Revenue Code and the applicable rules, regulations, and determinations of the internal revenue service.

(3) The board may adopt rules to administer [sections 1 through 8].

Section 4. Eligibility — participation criteria — membership status — service interruptions. (1) Any member eligible to retire under 19-6-501 is eligible for and may elect to participate in the DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.

(2) A member electing to participate in the DROP shall participate for a minimum of 1 month and may not participate for more than 5 years.

(3) A member may participate in the DROP only once.

(4) A participant in the DROP remains a member of the retirement system but may not receive membership service or service credit in the system for the duration of the participant's DROP period.

(5) If participation is interrupted by military service or disability before the participant retires, then the duration of the absence may not be included in calculating the DROP period.

Section 5. Retirement system contributions — benefit payments to individual DROP accounts — investment returns. (1) (a) During a participant's DROP period, state contributions under 19-6-410 and employer contributions under 19-6-404 must continue to be made to the retirement system.

(b) Member contributions under 19-6-402 must be made to the member's DROP account.

(2) Each month during the DROP period, in addition to the contributions credited under subsection (1)(b), a participant's DROP account must be credited with:

(a) the monthly benefit that would have been payable to the participant had the participant terminated employment and retired at the commencement of the DROP period, excluding any postretirement benefit adjustments that would have been applied to the benefit under part 7 of this chapter; and

(b) interest every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend.

Section 6. Survivorship benefit. (1) If a participant dies prior to the receipt of the DROP benefit pursuant to [section 8], the participant's surviving spouse or dependent child is entitled to receive a lump-sum payment equal to the participant's DROP benefit as of the date of the participant's death and the benefit the surviving spouse or dependent child would have received under 19-6-505 had the participant retired rather than elected to participate in the DROP.

(2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive a lump-sum payment equal to the participant's DROP benefit as of the date of the participant's death and the participant's accumulated contributions minus any benefits paid from the participant's account, including monthly DROP accruals.

(3) The benefit paid pursuant to this section must include interest credited to the participant's account every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at a time other than a fiscal yearend.

Section 7. Employment and benefits after DROP period. (1) When a member, after the end of the DROP period, continues employment in a covered position, state contributions under 19-6-410, employer contributions under 19-6-404, and member contributions under 19-6-402 must continue to be made to the retirement system.

(2) A member who, after the end of the DROP period, continues employment in a covered position is:

(a) immediately vested for benefits accrued subsequent to the end of the DROP period; and

(b) upon terminating service, entitled to:

(i) the member's service retirement benefit earned prior to the DROP period, including any postretirement benefit adjustment on that benefit for which the member is eligible under this chapter, subject to subsection (3);

(ii) a service retirement benefit based on the member's service credit and highest average compensation during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment on that benefit for which the member is eligible under part 7 of this chapter, subject to subsection (3); and

(iii) the member's DROP benefit.

(3) The postretirement benefit adjustment applied pursuant to (2)(b)(i) and pursuant to (2)(b)(ii) must commence on January 1 immediately following the member's retirement and does not apply to the member's DROP benefit.

Section 8. Distribution of DROP benefit. (1) Upon termination of service, a participant is entitled to:

(a) receive a lump-sum distribution of the participant's DROP benefit;

(b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and authorized by the board; or

(c) any other distribution or method of payment of the DROP benefit approved by the board.

(2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all other applicable provisions of Title 19 and the Internal Revenue Code.

Section 9. Section 19-6-710, MCA, is amended to read:

"19-6-710. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), for members hired before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in ~~subsection (2)(b)~~ *subsections (2)(b) and (4) and [section 7(3)]*, a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.

(4) If a member participated in the DROP and did not continue employment in a covered position after the member's participation, the guaranteed annual benefit adjustment provided for in this section must commence on January 1 immediately following the member's retirement and does not apply to the member's DROP benefit.

~~(4)~~*(5)* The board shall adopt rules to administer the provisions of this section."

Section 10. Board to seek commissioner's ruling or determination — contingent voidness. (1) The public employees' retirement board shall, as soon as possible, request in writing a ruling or determination from the commissioner of internal revenue as to whether the deferred retirement option plan established pursuant to [sections 1 through 8] constitutes a qualified plan pursuant to section 401(a) of the Internal Revenue Code. The board shall notify the secretary of state and the code commissioner when the commissioner of internal revenue has issued a ruling or determination.

(2) If the internal revenue service ruling or determination is not favorable, [this act] is void.

Section 11. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 19, chapter 6, and the provisions of Title 19, chapter 6, apply to [sections 1 through 8].

Approved April 22, 2015

CHAPTER NO. 259

[SB 289]

AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS; REVISING DEFINITIONS OF "CONTRIBUTION", "EXPENDITURE", AND "POLITICAL COMMITTEE"; CLARIFYING TYPES OF POLITICAL COMMITTEES; DEFINING CAMPAIGN-RELATED TERMS; REVISING ATTRIBUTION REQUIREMENTS; PROHIBITING A UNION FROM CONTRIBUTING TO CANDIDATES; REQUIRING THE COMMISSIONER OF POLITICAL PRACTICES TO ADOPT RULES TO DETERMINE THE PRIMARY PURPOSE OF AN INCIDENTAL COMMITTEE AND TO DEFINE WHAT CONSTITUTES A DE MINIMIS ACT, CONTRIBUTION, OR EXPENDITURE; REVISING WHEN A POLITICAL COMMITTEE FILES CERTIFICATION WITH THE COMMISSIONER; CLARIFYING DISCLOSURE REQUIREMENTS FOR CERTAIN ELECTION MATERIALS; REVISING THE TIMES FOR FILING CERTAIN REPORTS; CLARIFYING DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS AND EXPENDITURES; ALLOWING THE COMMISSIONER OF POLITICAL PRACTICES TO REQUIRE CERTAIN REPORTS TO BE FILED ELECTRONICALLY; REQUIRING THE COMMISSIONER TO POST CERTAIN REPORT INFORMATION ON A WEBSITE; PROVIDING DISCLOSURE REQUIREMENTS FOR INCIDENTAL COMMITTEES; CLARIFYING THAT CERTAIN DISCLOSURE REPORTS ARE TO BE FILED REGARDLESS OF AN ENTITY'S TAX STATUS; REVISING AND EXPANDING THE COMMISSIONER'S RULEMAKING AUTHORITY; AMENDING SECTIONS 2-2-121, 13-1-101, 13-35-225, 13-35-227, 13-35-402, 13-37-114, 13-37-201, 13-37-216, 13-37-219, 13-37-225, 13-37-226, 13-37-228, 13-37-229, 13-37-231, AND 13-37-402, MCA; AND REPEALING SECTION 13-37-230, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(d) (i) If the public officer or public employee is a Montana highway patrol chief or highway patrol officer appointed under Title 44, chapter 1, the term "equipment" as used in this subsection (3) includes the chief's or officer's official highway patrol uniform.

(ii) A Montana highway patrol chief's or highway patrol officer's title may not be referred to in the solicitation of support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

(4) (a) A candidate, as defined in 13-1-101~~(6)(a)~~*(8)(a)*, may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate's official functions.

(b) A state officer may not use or permit the use of public time, facilities, equipment, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a newspaper, on radio, or on television that contains the state officer's name, picture, or voice except in the case of a state or national emergency if the announcement is reasonably necessary to the state officer's official functions or in the case of an announcement directly related to a program or activity under the jurisdiction of the office or position to which the state officer was elected or appointed.

(5) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act."

Section 2. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7) "Ballot issue committee" means a political committee specifically organized to support or oppose a ballot issue.

~~(6)~~*(8)* "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

~~(7)~~*(9)* (a) "Contribution" means:

(i) *the receipt by a candidate or a political committee of* an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to ~~influence an election~~ *support or oppose a candidate or a ballot issue*;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

~~(ii)~~*(iii)* ~~a transfer of funds between political committees~~ *the receipt by a political committee of funds transferred from another political committee*;

~~(iii)~~*(iv)* the payment by a person ~~other than a candidate or political committee~~ *other than a candidate or political committee* of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean~~:~~

~~(i)~~ services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual~~;~~

~~(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;~~

~~(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or~~

~~(iv) filing fees paid by the candidate~~.

(10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

~~(8)~~*(12)* "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

~~(9)~~*(13)* "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(14) (a) "Election communication" means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;

(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

(15) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

~~(10)~~*(16)* "Elector" means an individual qualified to vote under state law.

~~(11)~~*(17)* (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value*:*

(i) made ~~for the purpose of influencing the results of an election~~ *by a candidate or political committee to support or oppose a candidate or a ballot issue; or*

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(7)~~ *(9)*;

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, *blog,* or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

~~(12)~~*(18)* "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(13)~~*(19)* "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

~~(14)~~*(20)* "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

~~(15)~~*(21)* "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(22) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection (22), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

(23) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

(24) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

~~(16)~~*(25)* "Individual" means a human being.

~~(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.~~

~~(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.~~

~~(18)~~*(26)* "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

~~(19)~~*(27)* "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

~~(20)~~*(28)* "Person" means an individual, corporation, association, firm, partnership, cooperative, committee*, including a political committee*, club, union, or other organization or group of individuals or a candidate as defined in subsection ~~(6)~~ *(8)*.

~~(21)~~*(29)* "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

~~(22)~~*(30) (a)* "Political committee" means a combination of two or more individuals or a person other than an individual who ~~makes~~ *receives* a contribution or *makes an* expenditure:

~~(a)~~*(i)* to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; ~~or~~

~~(b)~~*(ii)* to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

~~(c) as an earmarked contribution~~

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of $250 or less.

(31) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(32) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements, as provided in Title 13, chapter 10, part 5.

~~(23)~~*(33)* "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

~~(24)~~*(34)* "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

~~(25)~~*(35)* "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

~~(26)~~*(36)* "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

~~(27)~~*(37)* "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

~~(28)~~*(38)* "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(29)~~*(39)* "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

~~(30)~~*(40)* "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

~~(31)~~*(41)* "School election" has the meaning provided in 20-20-101.

~~(32)~~*(42)* "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

~~(33)~~*(43)* "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

~~(34)~~*(44)* "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

~~(35)~~*(45)* "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(36)~~*(46)* "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(47) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

~~(37)~~*(48)* "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(38)~~*(49)* "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(39)~~*(50)* "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

~~(40)~~*(51)* "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 3. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous — statement of accuracy — notice — penalty. (1) All ~~communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising~~ *election communications, electioneering communications, and independent expenditures* must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. The attribution must contain:

(a) for election ~~material~~ *communications or electioneering communications* financed by a candidate or a candidate's campaign finances, the name and the address of the candidate or the candidate's campaign; ~~and~~

(b) for election ~~material~~ *communications, electioneering communications, or independent expenditures* financed by a political committee, the name of the

committee, the name of the committee treasurer, and the address of the committee or the committee treasurer*; and*

(c) for election communications, electioneering communications, or independent expenditures financed by a political committee that is a corporation or a union, the name of the corporation or union, its chief executive officer or equivalent, and the address of the principal place of business.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of ~~contrasting~~ *all* votes ~~known to have been~~ made by the candidate on the same ~~issue if the contrasting votes were made in any of the previous 6 years~~ *legislative bill or enactment*; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate ~~or the candidate's political committee~~ and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's ~~legal~~ agent if the election material was not prepared for a candidate ~~or a candidate's political committee~~.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed *or if the information required by subsection (4) is not filed with the commissioner*, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within ~~5~~ *2 business* days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3) *or file the information required by subsection (4) with the commissioner*; and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

(6) Whenever the commissioner receives a complaint alleging ~~a~~ *any* violation of ~~subsection (1) or (2)~~ *subsections (1) through (3)*, the commissioner shall as soon as practicable assess the merits of the complaint.

(7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the complainant and the candidate or political committee of the commissioner's determination. The notice must state that the

candidate or political committee shall bring the material into compliance as required under this section:

(i) within ~~5~~ *2 business* days after receiving the notification if the notification occurs more than 7 days prior to an election; or

(ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an election.

(b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to a civil penalty pursuant to 13-37-128."

Section 4. Section 13-35-227, MCA, is amended to read:

"13-35-227. Prohibited contributions from corporations *and unions*. (1) A corporation *or union* may not make a contribution ~~or an expenditure in connection with~~ *to* a candidate ~~or a political committee that supports or opposes a candidate or a political party~~ *directly or through an intermediary*.

(2) A ~~person,~~ candidate~~, or political committee~~ may not accept or receive a corporate *or union* contribution described in subsection (1).

(3) A political committee that is not a corporation or union may establish a fund to be used for making political contributions to candidates if the fund consists only of funds solicited from noncorporate and nonunion sources.

~~(3)~~*(4)* ~~This section does not prohibit the establishment or administration of~~ *A corporation or union may establish* a separate, segregated fund to be used for making political contributions ~~or expenditures~~ *to candidates* if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or member of the corporation *or union*.

~~(4)~~*(5)* A person who violates this section is subject to the civil penalty provisions of 13-37-128."

Section 5. Section 13-35-402, MCA, is amended to read:

"13-35-402. Fair notice period before election ~~— definition~~. (1) A candidate~~,~~ *or* a political committee ~~that has filed a certification under 13-37-201, and an independent political committee~~ shall at the time specified in subsection (3) ~~of this section~~ provide to candidates listed in subsection (2) ~~of this section~~ any final copy of campaign advertising in print media, in printed material, or by broadcast media that is intended for public distribution in the 10 days prior to an election *day* unless:

(a) identical material was already published or broadcast; or

(b) the material does not identify or mention the opposing candidate.

(2) The material must be provided to all other candidates who have filed for the same office and who are individually identified or mentioned in the advertising, except candidates mentioned in the context of endorsements.

(3) Final copies of material described in subsection (1) must be provided to the candidates listed in subsection (2) at the following times:

(a) at the time the material is published or broadcast or disseminated to the public;

(b) if the material is disseminated by direct mail, on the date of the postmark; or

(c) if the material is prepared and disseminated by hand, on the day the material is first being made available to the general public.

(4) The copy of the material that must be provided to the candidates listed in subsection (2) must be provided by electronic mail, facsimile transmission, or hand delivery, with a copy provided by direct mail if the recipient does not have available either electronic mail or facsimile transmission. If the material is for broadcast media, the copy provided must be a written transcript of the broadcast.

~~(5) For the purposes of this section, an "independent political committee" is a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or a candidate's committee in conjunction with the making of expenditures or accepting contributions.~~"

Section 6. Section 13-37-114, MCA, is amended to read:

"13-37-114. Rules. *(1)* The commissioner shall adopt rules to carry out the provisions of chapter 35 of this title and this chapter in conformance with the Montana Administrative Procedure Act.

(2) The rules must:

(a) include the criteria and process used to determine the primary purpose of an incidental committee; and

(b) define what constitutes de minimis acts, contributions, or expenditures."

Section 7. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. *(1)* Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section.

(2) (a) A candidate shall file the certification within 5 days after becoming a candidate.

(b) ~~A~~ *Except as provided in subsection (2)(c), a* political committee shall file the certification, which must include an organizational statement and the name and address of all officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first.

(c) A political committee that is seeking to place a ballot issue before the electors shall file the certification, including the information required in subsection (2)(b), within 5 days after the issue becomes a ballot issue, as defined in 13-1-101(6)(b).

(3) The certification of a candidate or political committee must be filed with the commissioner and the appropriate election administrator as specified for the filing of reports in 13-37-225."

Section 8. Section 13-37-216, MCA, is amended to read:

"13-37-216. Limitations on contributions — adjustment. (1) (a) Subject to adjustment as provided for in subsection ~~(4)~~ *(3)* and subject to *13-35-227 and* 13-37-219, aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

(i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed $500;

(ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $250;

(iii) for a candidate for any other public office, not to exceed $130.

(b) A contribution to a candidate includes contributions made to ~~the candidate's committee and to~~ any political committee organized on the candidate's behalf.

~~(2) (a)~~ A political committee that is not independent of the candidate is considered to be organized on the candidate's behalf. ~~For the purposes of this section, an independent committee means a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or candidate's committee and that does not act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions.~~

~~(b) A leadership political committee maintained by a political officeholder is considered to be organized on the political officeholder's behalf.~~

~~(3)~~*(2)* All political committees except those of political party organizations are subject to the provisions of ~~subsections (1) and (2)~~ *subsection (1)*. ~~For purposes of this subsection, "political party organization" means any political organization that was represented on the official ballot at the most recent gubernatorial election.~~ Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection ~~(4)~~ *(3)* and subject to 13-37-219, from all political party committees:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed $18,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $6,500;

(c) for a candidate for public service commissioner, not to exceed $2,600;

(d) for a candidate for the state senate, not to exceed $1,050;

(e) for a candidate for any other public office, not to exceed $650.

~~(4)~~*(3)* (a) The commissioner shall adjust the limitations in subsections (1) and ~~(3)~~ *(2)* by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2002.

(b) The resulting figure must be rounded up or down to the nearest:

(i) $10 increment for the limits established in subsection (1); and

(ii) $50 increment for the limits established in subsection ~~(3)~~ *(2)*.

(c) The commissioner shall publish the revised limitations as a rule.

~~(5)~~*(4)* ~~A~~ *A* candidate may not accept any contributions, including in-kind contributions, in excess of the limits in this section.

~~(6)~~*(5)* For purposes of this section, "election" means the general election or a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only one election to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply."

Section 9. Section 13-37-219, MCA, is amended to read:

"13-37-219. Limitations on contributions to candidate when office sought is not known. A candidate, as defined in 13-1-101~~(6)(b)~~*(8)(b)*, who has not determined the office to which the individual will seek nomination or election is subject to the lowest contribution limitation of the offices the candidate is considering seeking."

Section 10. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required. (1) Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. Except as provided in subsection (3), all reports required by this chapter must be filed with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports must be filed with the election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the election administrator in the county that the commissioner specifies.

(2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law.

(3) Reports required by this chapter for candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or district court judge, and candidates for a state office filled by a statewide vote must be filed with the commissioner and do not have to be filed with the election administrator of a county.

(4) A person who makes an election communication, electioneering communication, or independent expenditure is subject to reporting and disclosure requirements as provided in chapters 35 and 37 of this title."

Section 11. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana*,* ~~and political committees that are organized to support or oppose a particular statewide candidate~~ *statewide ballot issue committees, and political committees that receive a contribution or make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue* shall file reports electronically as follows:

(a) quarterly, due on the ~~fifth~~ *5th* day following a calendar quarter, beginning with the calendar quarter in which*:*

(i) funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot*; or*

(ii) an issue becomes a ballot issue, as defined in 13-1-101(6)(b);

(b) on the ~~10th~~ *1st* day of *each month from* March~~, April, July, August, and September~~ *through November during a year in which an election is held*;

(c) on the 15th ~~and 5th days~~ *day* preceding the date on which an election is held;

(d) within ~~24 hours~~ *2 business days* after receiving a contribution of $200 or more if received between the ~~10th~~ *20th* day before the election and the day of the election;

(e) not more than 20 days after the date of the election; and

(f) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

~~(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:~~

~~(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ballot issue is~~

~~submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;~~

~~(b) on the 10th day of March and on the 10th day of each subsequent month through September in each year that an election is to be held;~~

~~(c) on the 15th and 5th days preceding the date on which an election is held;~~

~~(d) within 24 hours after receiving a contribution of $500 or more if received between the 10th day before the election and the day of the election;~~

~~(e) within 20 days after the election; and~~

~~(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).~~

~~(3)~~*(2)* Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that ~~are specifically organized~~ *receive contributions or make expenditures* to support or oppose a particular state district candidate or issue*, unless the political committee is already reporting under the provisions of subsection (1),* shall file reports *as follows*:

(a) on the *35th and* 12th ~~day~~ *days* preceding the date on which an election is held;

(b) within ~~48 hours~~ *2 business days* after receiving a contribution of $100 or more if received between the 17th day before the election and the day of the election~~. The report under this subsection (3)(b) must be made by mail or by electronic communication to the commissioner pursuant to 13-37-225.~~*;*

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

~~(4)~~*(3)* Candidates for any other public office and political committees that ~~are specifically organized~~ *receive contributions or make expenditures* to support or oppose a particular local issue shall file the reports specified in subsection ~~(3)~~ *(2)* only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds $500, except as provided in 13-37-206.

~~(5)~~*(4)* ~~For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee~~ *Independent and political party committees not required to report under subsection (1) or (2)* shall file:

(a) a report on the ~~12th day~~ *90th, 35th, and 12th days* preceding the date of an election in which it participates by making an expenditure;

(b) a report within ~~24 hours of making an expenditure or incurring a debt or obligation~~ *2 business days of receiving a contribution* of $500 or more ~~for election material described in 13-35-225(1)~~ if ~~made~~ *received* between the 17th day before the election and the day of the election;

(c) a report within 2 business days of making an expenditure of $500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;

~~(c)~~*(d)* a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

~~(d)~~*(e)* a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(5) An incidental committee not required to report under subsection (1) or (2) shall file a report:

(a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making an expenditure;

(b) within 2 business days of receiving a contribution as provided in [section 14(1)] of $500 or more if received between the 17th day before an election and the day of the election;

(c) within 2 business days of making an expenditure of $500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;

(d) not more than 20 days after the date of the election in which it participated; and

(e) on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner shall post on the commissioner's website:

(a) all reports filed under this section within 7 business days of filing; and

(b) for each election the calendar dates that correspond with the filing requirements of subsections (1), (2), (4), and (5).

(7) The commissioner may require reports filed under this section to be submitted electronically.

~~(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental political committees shall report their politically related activities in accordance with this chapter.~~

~~(7)~~*(8)* Except as provided in subsections (1)(d), ~~(2)(d)~~ *(2)(b)*, ~~(3)(b)~~ *(4)(b), (4)(c)*, ~~and~~ (5)(b), *and (5)(c),* all reports required by this section must be complete as of the ~~fifth~~ *5th* day before the date of filing as specified in 13-37-228(2) and this section.

(9) A political committee may file a closing report prior to the date prescribed by rule or set in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle."

Section 12. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee, as defined in 13-1-101, until the ~~fifth~~ *5th* day before the date of filing of the appropriate initial report pursuant to 13-37-226(1) through (5). Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by transmission of the petition to the proponent of the ballot issue or referral by the secretary of state even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5). For the purposes of this subsection, the

reports required under 13-37-226(1)(d), ~~(2)(d)~~ *(2)(b)*, ~~(3)(b)~~ *(4)(b), (4)(c)*, ~~and~~ (5)(b)*, and (5)(c)* are not periodic reports and must be filed as required by 13-37-226(1)(d), ~~(2)(d)~~ *(2)(b)*, ~~(3)(b)~~ *(4)(b), (4)(c)*, ~~or~~ (5)(b), *and (5)(c),* as applicable.

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are satisfied and further contributions or expenditures will not be received or made that relate to the campaign unless the election is a primary election and the candidate or political committee will participate in the general election."

Section 13. Section 13-37-229, MCA, is amended to read:

"13-37-229. Disclosure ~~of contributions received~~ *requirements for candidates, ballot issue committees, political party committees, and independent committees.* ~~Each report required by this chapter shall~~ *(1) The reports required under 13-37-225 through 13-37-227 from candidates, ballot issue committees, political party committees, and independent committees must* disclose the following information *concerning contributions received*:

~~(1)~~*(a)* the amount of cash on hand at the beginning of the reporting period;

~~(2)~~*(b)* the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions, other than loans, of $35 or more to a candidate or political committee, including the purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar fundraising events;

~~(3)~~*(c)* for each person identified under subsection ~~(2)~~ *(1)(b)*, the aggregate amount of contributions made by that person within the reporting period and the total amount of contributions made by that person for all reporting periods;

~~(4)~~*(d)* the total sum of individual contributions made to or for a political committee or candidate and not reported under subsections ~~(2) and (3)~~ *(1)(b) and (1)(c)*;

~~(5)~~*(e)* the name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds, together with the amount and dates of all transfers;

~~(6)~~*(f)* each loan from any person during the reporting period, together with the full names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of each loan;

~~(7)~~*(g)* the amount and nature of debts and obligations owed to a political committee or candidate, in the form prescribed by the commissioner;

~~(8)~~*(h)* an itemized account of proceeds that total less than $35 from a person from mass collections made at fundraising events;

~~(9)~~*(i)* each contribution, rebate, refund, or other receipt not otherwise listed under subsections ~~(2) through (8)~~ *(1)(b) through (1)(h)* during the reporting period;

~~(10)~~*(j)* the total sum of all receipts received by or for the committee or candidate during the reporting period; and

~~(11)~~*(k)* other information that may be required by the commissioner to fully disclose the sources of funds used to support or oppose candidates or issues.

(2) (a) Except as provided in subsection (2)(c), the reports required under 13-37-225 through 13-37-227 from candidates, ballot issue committees, political

party committees, and independent committees must disclose the following information concerning expenditures made:

(i) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made by the committee or candidate during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(ii) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses have been made, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(iii) the total sum of expenditures made by a political committee or candidate during the reporting period;

(iv) the name and address of each political committee or candidate to which the reporting committee or candidate made any transfer of funds, together with the amount and dates of all transfers;

(v) the name of any person to whom a loan was made during the reporting period, including the full name, mailing address, occupation, and principal place of business, if any, of that person and the full names, mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

(vi) the amount and nature of debts and obligations owed by a political committee or candidate in the form prescribed by the commissioner; and

(vii) other information that may be required by the commissioner to fully disclose the disposition of funds used to support or oppose candidates or issues.

(b) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of a candidate or political committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

(c) A candidate is required to report the information specified in this subsection (2) only if the transactions involved were undertaken for the purpose of supporting or opposing a candidate."

Section 14. Disclosure requirements for incidental committees. (1) The reports required under 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning contributions to the committee that are designated by the contributor for a specified candidate, ballot issue, or petition for nomination or that are made by the contributor in response to an appeal by the incidental committee for contributions to support incidental committee election activity, including in-kind expenditures, independent expenditures, election communications, or electioneering communications:

(a) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions during the reporting period for a specified candidate, ballot issue, or petition for nomination of $35 or more;

(b) for each person identified under subsection (1)(a), the aggregate amount of contributions made by that person for all reporting periods;

(c) each loan received from any person during the reporting period for a specified candidate, ballot issue, or petition for nomination, together with the

full names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of each loan;

(d) the amount and nature of debts and obligations owed to an incidental committee for a specified candidate, ballot issue, or petition for nomination in the form prescribed by the commissioner;

(e) an account of proceeds that total less than $35 per person from mass collections made at fundraising events sponsored by the incidental committee for a specified candidate, ballot issue, or petition for nomination; and

(f) the total sum of all contributions received by or designated for the incidental committee for a specified candidate, ballot issue, or petition for nomination during the reporting period.

(2) The reports required under 13-37-225 through 13-37-227 from incidental committees must disclose the following information concerning expenditures made:

(a) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(b) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses have been made during the reporting period, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(c) the total sum of expenditures made during the reporting period;

(d) the name and address of each political committee or candidate to which the reporting committee made any transfer of funds together with the amount and dates of all transfers;

(e) the name of any person to whom a loan was made during the reporting period, including the full name, mailing address, occupation, and principal place of business, if any, of that person, and the full names, mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

(f) the amount and nature of debts and obligations owed by a political committee in the form prescribed by the commissioner; and

(g) other information that may be required by the commissioner to fully disclose the disposition of funds used to make expenditures.

(3) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of an incidental committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

(4) An incidental committee that does not receive contributions for a specified candidate, ballot issue, or petition for nomination and that does not solicit contributions for incidental committee election activity, including in-kind expenditures, independent expenditures, election communications, or electioneering communications, is required to report only its expenditures.

Section 15. Section 13-37-231, MCA, is amended to read:

"13-37-231. Reports to be certified as true*, complete,* and correct. (1) A report required by this chapter to be filed by a candidate or political committee must be verified as true*, complete,* and correct by the oath or affirmation of the

individual filing the report. The individual filing the report must be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner.

(2) A copy of a report or statement filed by a candidate or political committee must be preserved by the individual filing it for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer."

Section 16. Reports to be filed regardless of tax status. A person that makes an election communication, an electioneering communication, or an independent expenditure shall file reports required by this chapter regardless of the person's tax status under state or federal law.

Section 17. Section 13-37-402, MCA, is amended to read:

"13-37-402. Constituent accounts — reports. (1) A constituent services account may be established to pay for constituent services by a successful candidate required to report ~~contributions~~ under 13-37-229 ~~and expenditures under 13-37-230~~. A constituent services account may be established by filing an appropriate form with the commissioner.

(2) (a) A successful candidate may deposit only surplus campaign funds in a constituent services account.

(b) The money in the account may be used only for constituent services. The money in the account may not be used for personal benefit. Expenditures from a constituent services account may not be made when the holder of the constituent services account also has an open campaign account.

(3) A person described in subsection (1) may not establish any account related to the public official's office other than a constituent services account. This subsection does not prohibit a person from establishing a campaign account.

(4) The holder of a constituent services account shall file a quarterly report with the commissioner, by a date established by the commissioner by rule. The report must disclose the source of all money deposited in the account and enumerate expenditures from the account. The report must include the same information as required for a candidate ~~reporting contributions~~ *required to report* under 13-37-229 ~~and expenditures under 13-37-230~~. The report must be certified as provided in 13-37-231.

(5) The holder of a constituent services account shall close the account within 120 days after the account holder leaves public office."

Section 18. Repealer. The following section of the Montana Code Annotated is repealed:

13-37-230. Disclosure of expenditures made.

Section 19. Codification instruction. [Sections 14 and 16] are intended to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2, apply to [sections 14 and 16].

Section 20. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 21. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved April 22, 2015

CHAPTER NO. 260

[HB 250]

AN ACT CLARIFYING THAT SOUND REDUCTION DEVICES MAY BE USED ON FIREARMS WHILE HUNTING WILDLIFE; AMENDING SECTION 87-6-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-401, MCA, is amended to read:

"87-6-401. Unlawful use of equipment while hunting. (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife except for predatory animals, wolves, and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm~~;~~. *This subsection (1)(c) does not prohibit the use of a device or mechanism registered with the bureau of alcohol, tobacco, firearms and explosives to silence, muffle, or minimize the report of a firearm when hunting wildlife.*

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(4) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 261

[HB 330]

AN ACT ESTABLISHING STANDARDS AND LIMITS FOR LOCAL LAW ENFORCEMENT ACQUISITION AND USE OF CERTAIN EQUIPMENT; AND REQUIRING A LOCAL LAW ENFORCEMENT AGENCY TO PROVIDE PUBLIC NOTIFICATION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Limitations on excess property provided to local law enforcement — definitions. (1) A law enforcement agency may not receive the following property from a military equipment surplus program operated by the federal government:

(a) drones that are armored, weaponized, or both;

(b) aircraft that are combat configured or combat coded;

(c) grenades or similar explosives and grenade launchers;

(d) silencers; or

(e) militarized armored vehicles.

(2) If a law enforcement agency purchases property from a military equipment surplus program operated by the federal government, the law enforcement agency may only use state or local funds for the purchase. Funds obtained from the federal government may not be used to purchase property from a military equipment surplus program.

(3) For purposes of this section, "law enforcement agency" means a law enforcement service provided by a local government as authorized in Title 7, chapter 32.

Section 2. Public notification. If a law enforcement agency requests property from a military equipment surplus program, the law enforcement agency shall publish a notice of the request on a publicly accessible website within 14 days after the request.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 7, chapter 32, and the provisions of Title 7, chapter 32, apply to [sections 1 and 2].

Approved April 23, 2015

CHAPTER NO. 262

[HB 334]

AN ACT GENERALLY REVISING LAWS APPLICABLE TO COUNTY GOVERNMENT; AMENDING THE THRESHOLD FOR CERTAIN LOCAL GOVERNMENT AUDITS; AMENDING THE DEFINITION OF "POLITICAL

SUBDIVISION"; REQUIRING CERTAIN BOARDS, DISTRICTS, AND COMMISSIONS TO SUBMIT THEIR MINUTES TO THE COUNTY CLERK AND RECORDER FOR ELECTRONIC STORAGE AT NO COST; REQUIRING A PUBLIC LOCATION FOR POSTING COUNTY INFORMATION; ADJUSTING RESIDENCY REQUIREMENTS FOR COUNTY COMMISSIONERS; PROVIDING FOR APPOINTMENT TO FILL A VACANCY CREATED BY A NONPARTISAN COMMISSIONER; AMENDING THE REQUIREMENTS FOR SETTING CONSOLIDATED OFFICE SALARIES; REQUIRING THAT A PLAN BE ADOPTED FOR A CAPITAL IMPROVEMENT FUND; REMOVING THE REQUIREMENT THAT A COUNTY TREASURER MAKE AN ANNUAL FINANCIAL REPORT TO THE COUNTY SUPERINTENDENT; AMENDING REQUIREMENTS CONCERNING WHEN A COUNTY MUST SUBMIT INDEBTEDNESS OR LIABILITY TO A VOTE OF THE ELECTORS OF THE COUNTY; REVISING THE ALLOWABLE METHODS OF ASSESSMENT FOR SPECIAL DISTRICTS; REVISING DEADLINES FOR A RESOLUTION LEVYING COSTS IN A LIGHTING DISTRICT; REVISING COUNTY LAND AND ROAD SURVEYOR REQUIREMENTS AND COUNTY ENGINEER REQUIREMENTS; REVISING THE BODY EMPLOYING A WEED COORDINATOR; REVISING THE GROUNDS FOR TERMINATION AND WRITTEN NOTICE REQUIREMENTS FOR TERMINATION OF A DEPUTY SHERIFF; REPEALING REQUIREMENTS CONCERNING COUNTY TREASURER RECEIPTS; REPEALING CERTAIN REQUIREMENTS WITH RESPECT TO INCREASING PROPERTY TAXES; AMENDING SECTIONS 2-7-503, 2-9-101, 7-4-2104, 7-4-2106, 7-4-2312, 7-4-2631, 7-4-2801, 7-6-616, 7-6-2801, 7-7-2101, 7-11-1024, 7-12-2202, 7-14-2606, 7-22-2101, 7-32-2107, 7-32-2108, AND 20-9-212, MCA; REPEALING SECTIONS 7-6-2116 AND 15-10-203, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-7-503, MCA, is amended to read:

"2-7-503. Financial reports and audits of local government entities. (1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of ~~the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3)~~ *$500,000*, ~~but~~ regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the department of revenue and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517."

Section 2. Section 2-9-101, MCA, is amended to read:

"2-9-101. Definitions. As used in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Claim" means any claim against a governmental entity, for money damages only, that any person is legally entitled to recover as damages because of personal injury or property damage caused by a negligent or wrongful act or omission committed by any employee of the governmental entity while acting within the scope of employment, under circumstances where the governmental entity, if a private person, would be liable to the claimant for the damages under the laws of the state. For purposes of this section and the limit of liability contained in 2-9-108, all claims that arise or derive from personal injury to or death of a single person, or damage to property of a person, regardless of the number of persons or entities claiming damages, are considered one claim.

(2) (a) "Employee" means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity temporarily or permanently in the service of the governmental entity whether with or without compensation.

(b) The term does not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which parts 1 through 3 apply in the event of a claim.

(3) "Governmental entity" means the state and political subdivisions.

(4) "Personal injury" means any injury resulting from libel, slander, malicious prosecution, or false arrest and any bodily injury, sickness, disease, or

death sustained by any person and caused by an occurrence for which the state may be held liable.

(5) "Political subdivision" means any county, city, municipal corporation, school district, special improvement or taxing district, ~~or~~ other political subdivision or public corporation*, or any entity created by agreement between two or more political subdivisions*.

(6) "Property damage" means injury or destruction to tangible property, including loss of use of the property, caused by an occurrence for which the state may be held liable.

(7) "State" means the state of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state."

Section 3. Board minutes. An administrative board, district, or commission created under 7-1-201 through 7-1-203 shall submit the minutes of its proceedings within 30 days after the minutes have been approved by that body for electronic storage and retention in accordance with the provisions of Title 2, chapter 6, part 4. The administrative board, district, or commission shall submit the minutes for electronic storage to the county clerk and recorder of each county within the jurisdiction of the administrative board, district, or commission.

Section 4. Posting. (1) The governing body shall specify by resolution a public location for posting information and shall order erected a suitable posting board.

(2) When posting is required, a copy of the document must be placed on the posting board, and a copy must be available at the office of the county clerk and recorder.

Section 5. Section 7-4-2104, MCA, is amended to read:

"7-4-2104. Commissioners to be elected by district. (1) At each general election, the member or members of the board of county commissioners to be elected must be selected from the residents and electors of the district or districts in which the vacancy occurs, but the election of the member or members of the board must be submitted to the entire electorate of the county unless otherwise provided for under:

(a) a plan of government provided for in a county adopting an optional or alternative form of government; or

(b) a court order.

(2) A person may not be elected as a member of a board of county commissioners unless the person has resided in the county and the district for at least 2 years *immediately* preceding the general election."

Section 6. Section 7-4-2106, MCA, is amended to read:

"7-4-2106. Vacancy on board of county commissioners — resigning member not to participate in filling pending vacancy. (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in 2-16-501.

(2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the vacancy is as follows:

(a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the county central committee of that party shall submit to the remaining commissioners three names of people who have lived in the unrepresented district for at least 2 years *immediately* preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals named on both lists.

(b) If the former incumbent was independent*, nonpartisan,* or ~~was~~ originally nominated by a party that does not meet the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining commissioners shall invite applications for the vacancy in a notice published as provided in 13-1-108 and shall accept an application from any person who has lived in the unrepresented district for at least 2 years *immediately* preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these applicants to fill the vacancy.

(3) Whenever a vacancy occurs prior to August 1 before the general election held during the second or fourth year of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs prior to March 1 before the primary election during the second or fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year terms.

(b) Whenever the vacancy occurs on or after March 1 preceding the primary election, any political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the county election administrator of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed with the county election administrator prior to August 1 before the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs after July 31 preceding the general election held during the fourth year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve until the end of the term.

(5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint enough commissioners to allow for a quorum to be established. The vacancies must be filled in the order in which the commissioners' terms would have expired.

(b) If vacancies occur at different times but, because appointments have not yet been made, a quorum cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough commissioners to allow for a quorum to be established. The county compensation board shall appoint each commissioner in the order that the vacancy occurred.

(c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in 7-4-2104(2) and must be from the same district as the commissioner being replaced.

(ii) If a commissioner being replaced represented a party eligible for a primary election under 13-10-601, the county central committee of that party

shall, within 30 days of the occurrence of the vacancy, submit to the county compensation board three names of people who have lived in the unrepresented district for at least 2 years *immediately* prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner from the list of names provided by the county central committee.

(d) Once a quorum can be established, the county commissioners forming the quorum shall appoint the remaining commissioners as provided in this section.

(e) If a county compensation board does not exist, appointments under this subsection (5) must be made by a district judge having jurisdiction in the county.

(6) If a member of the board of county commissioners has submitted the member's resignation as provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that member may not be considered to be a remaining member of the commission as provided in this section and may not participate in filling the vacancy to be created when the resignation becomes effective."

Section 7. Section 7-4-2312, MCA, is amended to read:

"7-4-2312. Salary and bond of officer following consolidation. (1) (a) When two or more offices are consolidated under a single officer, the officer must receive a salary determined by the board or boards of county commissioners. However, the salary may not be more than 20% higher than the highest salary provided by law to be paid to any officer whose duties the officer is required to perform by reason of the consolidations.

(b) The board or boards shall, in conjunction with setting elected officials' salaries as provided in 7-4-2503, ~~annually~~ adopt a resolution fixing the percentage adjustment of the salary of the officer holding the consolidated office for the term beginning ~~with the first Monday in~~ January *1* immediately following the adoption of the resolution. *The board shall adopt the resolution for the subsequent term of the consolidated office prior to the first day of candidate filing for that term.*

(2) The officer shall give a bond in an amount equal to the highest bond required by law of any officer whose duties the officer is required to perform by reason of the consolidation of offices."

Section 8. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, $5;

(b) for filing of subdivision and townsite plats, $10 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments thereto, $25 plus 50 cents per tract or lot;

(d) for each page of a document required to be recorded with a subdivision, townsite plat, or certificate of survey, $1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, $2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, $3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, $2;

(l) for each certified copy of a birth certificate, $5, and for each certified copy of a death certificate, $3;

(m) for electronic storage of minutes of an administrative board, district, or commission pursuant to [section 3], [section 13], [section 20], or [section 22], no charge;

~~(m)~~*(n)* for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis."

Section 9. Section 7-4-2801, MCA, is amended to read:

"7-4-2801. Qualifications for county surveyor and deputies. (1) Except as provided in subsection (3), a county surveyor must be a ~~registered~~ professional engineer *as defined in 37-67-101* or ~~registered~~ professional land surveyor *as defined in 37-67-101.* ~~who has been in active practice of the profession for at least 3 years and who has had responsible charge of work as principal or assistant for at least 1 year. Graduation from a school of engineering or land surveying is considered as equivalent to 2 years of active practice.~~

(2) All deputies must also have a practical knowledge of engineering or land surveying.

(3) When the office of county surveyor is consolidated with another county office within the county, the requirements of subsection (1) are waived. Unless the officeholder has the qualifications prescribed in subsection (1), the officer shall, with the approval of the governing body, contract for the services of a person with those qualifications to perform the duties of county surveyor."

Section 10. Section 7-6-616, MCA, is amended to read:

"7-6-616. Capital improvement funds. (1) A county, municipal, or special district governing body may establish a capital improvement fund for the replacement, improvement, and acquisition of property, facilities, or equipment that costs in excess of $5,000 and that has a life expectancy of 5 years or more.

(2) A capital improvement ~~fund~~ *plan for the fund* must be formally adopted by the county, municipal, or special district governing body.

(3) The capital improvement fund may receive money from any source, including funds that have been allocated in any year but have not been expended or encumbered by the end of the fiscal year.

(4) Money in the capital improvement fund must be invested as provided by law, and interest and income from the investment of the capital improvement fund must be credited to the fund."

Section 11. Section 7-6-2801, MCA, is amended to read:

"7-6-2801. Management of school funds. The county treasurer shall:

(1) keep all school money in a separate fund and keep a separate account of its disbursement to the several school districts that are entitled to receive it, according to the apportionment of the county superintendent of schools;

(2) notify the county superintendent of the amount of the county school fund in the county treasury subject to apportionment, whenever required, and inform the superintendent of the amount of school money belonging to any other fund subject to apportionment, or as otherwise provided by law; *and*

(3) pay all warrants drawn on county or district school money, in accordance with the provisions of law, whenever the warrants are countersigned by the district clerk and properly endorsed by the holders~~;~~

~~(4) make annually, during the month of September, a financial report for the preceding year ending August 31 to the county superintendent, in a form required by the superintendent~~."

Section 12. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) A county may not issue bonds or incur other indebtedness for any purpose in an amount, including existing indebtedness, that in the aggregate exceeds 2.5% of the total assessed value of taxable property, determined as provided in 15-8-111, within the county as ascertained by the last assessment for state and county taxes.

~~(2) Except as provided in 7-7-2402, a county may not incur indebtedness or liability for any single purpose to an amount exceeding $500,000 without the approval of a majority of the electors of the county voting at an election as provided by law.~~

~~(3)~~*(2)* This section does not apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

Section 13. Minutes. The board or governing body administering and operating the special district as provided by 7-11-1021 shall submit the minutes of its proceedings for electronic storage as provided in [section 3] unless:

(1) the special district is operated by the governing body of a municipality; and

(2) the governing body has designated an alternative place for the minutes to be recorded or maintained.

Section 14. Section 7-11-1024, MCA, is amended to read:

"7-11-1024. Financing for special district. (1) The governing body shall make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body or separate board administering the district pursuant to 7-11-1021.

(2) For the purposes of this section, "assessable area" means the portion of a lot or parcel of land that is benefited by the special district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

(3) The governing body shall assess the percentage of the cost of the program or improvements:

(a) against the entire district as follows:

(i) each lot or parcel of land within the special district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire special district, exclusive of roads, streets, avenues, alleys, and public places;

(ii) if the governing body determines that the benefits derived from the program or improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the special district without regard to the assessable area of the lot or parcel;

(iii) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district;

(iv) each lot or parcel of land may be assessed based on the lineal front footage of any part of the lot or parcel that is in the district and abuts the area to be improved or maintained;

(v) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;

(vi) each lot or parcel of land within the district may be assessed based on each family residential unit or one or more business units; or

~~(vi)~~*(vii)* any combination of the assessment options provided in subsections (3)(a)(i) through ~~(3)(a)(v)~~ *(3)(a)(vi)* may be used for the special district as a whole; or

(b) based upon the character, kind, and quality of service for a residential or commercial unit, taking into consideration:

(i) the nature of the property or entity assessed;

(ii) a calculated basis for the program or service, including volume or weight;

(iii) the cost, incentives, or penalties applicable to the program or service practices; or

(iv) any combination of these factors.

(4) If property created as a condominium is subject to assessment, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration."

Section 15. Section 7-12-2202, MCA, is amended to read:

"7-12-2202. Apportionment of costs of maintaining lighting system. (1) The cost of the maintenance and operating service to a lighting rural improvement district may be apportioned among the various tracts of land within the district:

(a) in proportion to the assessed value of the lands within the district, as determined by the board of county commissioners;

(b) by assessing the cost equally against each of the lots or parcels located within the district;

(c) at the option of the board and as determined by the board, in proportion to the lineal front footage of each tract, any part of which is in the district and abuts the street or roadway along which the lighting system is to be maintained; or

(d) in proportion to the area, as determined by the board, of that portion of each tract included in the district.

(2) (a) ~~Before~~ *By the later of* the first ~~Monday of~~ *Thursday after the first Tuesday in* September ~~of each year~~ *or 30 days after receiving certified taxable values*, the board shall pass and finally adopt a resolution levying and assessing upon all the property within the district an amount equal to the whole cost of maintaining the lighting system. The levy and assessment must be proportioned against the tracts of land in the district as provided in this part.

(b) The resolution levying assessments to defray the cost of maintenance must be prepared and certified to in the same manner as a resolution levying assessments for making, constructing, and installing improvements in the district."

Section 16. Section 7-14-2606, MCA, is amended to read:

"7-14-2606. Survey of road. (1) The board may order the county surveyor~~,~~ or*, if the county surveyor is not a professional land surveyor,* some other ~~competent~~ *professional land* surveyor ~~if the county surveyor is incompetent,~~ to survey and plat the road. The surveyor shall file the surveyor's field notes with the county clerk and recorder.

~~(2) The surveyor must receive $7 a day and actual traveling expenses.~~

(2) As used in this section, "professional land surveyor" has the meaning provided in 37-67-101."

Section 17. Section 7-22-2101, MCA, is amended to read:

"7-22-2101. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Board" means a district weed board created under 7-22-2103.

(2) "Commissioners" means the board of county commissioners.

(3) "Coordinator" means the person employed by the ~~board~~ *county* to conduct the district noxious weed management program and supervise other district employees.

(4) "Department" means the department of agriculture provided for in 2-15-3001.

(5) "District" means a weed management district organized under 7-22-2102.

(6) "Native plant" means a plant indigenous to the state of Montana.

(7) "Native plant community" means an assemblage of native plants occurring in a natural habitat.

(8) (a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:

(i) as a statewide noxious weed by rule of the department; or

(ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

(b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

(9) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

(10) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds."

Section 18. Section 7-32-2107, MCA, is amended to read:

"7-32-2107. Tenure for deputy sheriffs — grounds for termination of employment — restrictions on evaluations. (1) A deputy sheriff shall continue in service until relieved of employment in the manner provided in this part and only for ~~one or more of the following specified causes:~~

~~(a) conviction of a felony subsequent to the commencement of employment;~~

~~(b) willful disobedience of an order or orders given by the sheriff;~~

~~(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;~~

~~(d) sleeping while on duty;~~

~~(e) incapacity materially affecting ability to perform official duties; or~~

~~(f) gross inefficiency in the performance of official duties~~ *good cause as defined in 39-2-903*.

(2) Quotas for investigative stops, citations, or arrests may not be established and may not be used in evaluating deputies."

Section 19. Section 7-32-2108, MCA, is amended to read:

"7-32-2108. Written notice of termination of employment required. When a sheriff terminates the employment of a deputy, the sheriff shall at the time of termination cause to be served upon the deputy a statement in writing~~, subscribed and sworn to by the sheriff~~, setting forth the cause or causes for the discharge or termination of the deputy's employment."

Section 20. Minutes. The board administering and operating the district shall submit the minutes of its proceedings for electronic storage as provided in [section 3].

Section 21. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county:

(1) must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax for elementary equalization;

(b) the basic county tax for high school equalization;

(c) the county tax in support of the transportation schedules;

(d) the county tax in support of the elementary and high school district retirement obligations; and

(e) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.

(2) whenever requested, shall notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent or the superintendent of public instruction;

(3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

(4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district school money;

(5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school taxes must be credited to the same fund and district for which the original taxes were levied.

(6) shall send all revenue received for a joint district, part of which is situated in the county, to the county treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3 months after that date until the end of the school fiscal year;

(7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

(8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered warrants must be made in accordance with ~~7-6-2116,~~ 7-6-2605~~,~~ and 7-6-2606.

(9) when directed by the trustees of a district, shall invest the money of the district within 3 working days of the direction;

(10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance;

(11) shall remit promptly to the department of revenue receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;

(12) shall invest the money received from the basic county taxes for elementary and high school equalization, the county levy in support of the elementary and high school district retirement obligations, and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of $50,000, pursuant to 20-3-325. If a clerk of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).

(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

Section 22. Minutes. The board of supervisors shall submit the minutes of its proceedings for electronic storage within 30 days after the minutes have been approved by that body for electronic storage and retention in accordance with the provisions of Title 2, chapter 6, part 4. The board of supervisors shall submit the minutes for electronic storage to the county clerk and recorder of each county within the jurisdiction of the district.

Section 23. Repealer. The following sections of the Montana Code Annotated are repealed:

7-6-2116. Receipt for money paid to county treasurer.

15-10-203. Increase of tax revenue — advertisement of intention and public hearing required.

Section 24. Codification instruction. (1) [Section 3] is intended to be codified as an integral part of Title 7, chapter 1, part 2, and the provisions of Title 7, chapter 1, part 2, apply to [section 3].

(2) [Section 4] is intended to be codified as an integral part of Title 7, chapter 1, part 21, and the provisions of Title 7, chapter 1, part 21, apply to [section 4].

(3) [Section 13] is intended to be codified as an integral part of Title 7, chapter 11, part 10, and the provisions of Title 7, chapter 11, part 10, apply to [section 13].

(4) [Section 20] is intended to be codified as an integral part of Title 7, chapter 13, part 23, and the provisions of Title 7, chapter 13, part 23, apply to [section 20].

(5) [Section 20] is intended to be codified as an integral part of Title 7, chapter 22, part 21, and the provisions of Title 7, chapter 22, part 21, apply to [section 20].

(6) [Section 20] is intended to be codified as an integral part of Title 7, chapter 33, part 21, and the provisions of Title 7, chapter 33, part 21, apply to [section 20].

(7) [Section 22] is intended to be codified as an integral part of Title 76, chapter 15, part 3, and the provisions of Title 76, chapter 15, part 3, apply to [section 22].

Section 25. Effective date. [This act] is effective July 1, 2015.

Approved April 23, 2015

CHAPTER NO. 263

[HB 343]

AN ACT PROHIBITING AN EMPLOYER FROM REQUESTING ONLINE PASSWORDS OR USER NAMES FOR AN EMPLOYEE'S OR JOB APPLICANT'S PERSONAL SOCIAL MEDIA ACCOUNTS; PROVIDING EXCEPTIONS; DEFINING "PERSONAL SOCIAL MEDIA"; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Employer access limited regarding personal social media account of employee or job applicant — conditions for exceptions — employer retaliation prohibited — penalties. (1) Except as provided in subsection (2), an employer or employer's agent may not require or request an employee or an applicant for employment to:

(a) disclose a user name or password for the purpose of allowing the employer or employer's agent to access a personal social media account of the employee or job applicant;

(b) access personal social media in the presence of the employer or employer's agent; or

(c) divulge any personal social media or information contained on personal social media.

(2) An employee shall provide, if requested, to an employer or employer's agent the employee's user name or password to access personal social media when:

(a) (i) the employer has specific information about an activity by the employee that indicates work-related employee misconduct or criminal defamation, as provided in 45-8-212;

(ii) the employer has specific information about the unauthorized transfer by the employee of the employer's proprietary information, confidential information, trade secrets, or financial data to a personal online account or personal online service; or

(iii) an employer is required to ensure compliance with applicable federal laws or federal regulatory requirements or with the rules of self-regulatory organizations as defined in section 3(a)(26) of the Securities and Exchange Act of 1934, 15 U.S.C. 78c(a)(26); and

(b) an investigation is under way and the information requested of the employee is necessary to make a factual determination in the investigation.

(3) Nothing in this section:

(a) limits an employer's right to promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including a requirement for an employee to disclose to the employer the employee's user name, password, or other information necessary to access employer-issued electronic devices, including but not limited to cell phones, computers, and tablet computers, or to access employer-provided software or e-mail accounts;

(b) prevents an employee from seeking injunctive relief in response to the provisions of subsection (2); or

(c) prevents the prosecution of a person for violating privacy in communications under 45-8-213.

(4) An employer may not discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee or job applicant for not complying with a request or demand by the employer that violates this section.

(5) (a) As used in this section, "personal social media" means a password-protected electronic service or account containing electronic content, including but not limited to e-mail, videos, still photographs, blogs, video blogs, podcasts, instant and text messages, internet website profiles or locations, and online services or accounts, including password-protected services or accounts to which an employee may post information, data, or pictures.

(b) The term does not include a social media account that is:

(i) opened for or provided by an educational institution and intended solely for educational purposes; or

(ii) opened for or provided by an employer and intended solely for business-related purposes.

(6) (a) An employee or an applicant for employment may bring an action against an employer for violating this section within 1 year in a small claims court. An employee or an applicant for employment may also have a cause of action under 45-8-213.

(b) Damages are limited to $500 or actual damages up to the limit provided in 3-10-1004. Legal costs may be awarded to the party that prevails in court.

(7) If an employer gains information improperly under this section and subsequently is involved in a computer security breach as provided in 30-14-1704, the employer is subject to penalties under 30-14-142.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 264

[HB 350]

AN ACT REVISING VENDOR REPRESENTATIVE REQUIREMENTS FOR LIQUOR SALES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 16-3-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-3-107, MCA, is amended to read:

"16-3-107. Resident representatives required. (1) For the purposes of this section, "vendor" means ~~a person,~~ *an individual or a* partnership, association, or corporation that sells liquor to the department.

(2) A vendor who desires to promote the sale of the vendor's product in the state shall employ *at least* one representative ~~and may employ two additional representatives to promote the sale of the vendor's product~~ *and, except as provided in subsection (3), may employ four additional representatives to promote the sale of the vendor's product*. A representative *employed under this section* must be a resident of the state or become a resident after employment. *A representative may not be under the age of 21. The department may determine further registration requirements by rule.*

~~(3) If a vacancy occurs in the one required position, the vendor shall fill the position within 60 days after the vacancy occurs.~~

(3) A vendor may employ an unlimited number of representatives if the representative is a direct employee, an owner, or an officer of the distillery and is not employed through an independent contractor."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 265

[HB 422]

AN ACT CREATING A PILOT PROJECT TO IMPROVE OUTCOMES FOR YOUTH IN THE CHILDREN'S MENTAL HEALTH SYSTEM; REQUIRING AN INTERIM STUDY OF EVIDENCE-BASED OUTCOMES; PROVIDING FOR PUBLIC PARTICIPATION IN DEVELOPMENT OF EVIDENCE-BASED OUTCOMES MODELS; REQUIRING COLLECTION AND ANALYSIS OF DATA; PROVIDING FOR DEVELOPMENT OF OPTIONS FOR PERFORMANCE-BASED REIMBURSEMENT; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Improved youth outcomes for children's mental health services — legislative purpose. (1) The legislature finds that implementing a pilot project for improved youth outcomes may benefit Montana youth who are in the children's mental health system because experiences in other states show that linking provider payments to desired outcomes and quality improvements may result in improved access to care, better integration and coordination of services, child-centered and family-focused planning, earlier and less restrictive interventions, and a reduced number of treatment days.

(2) The department of public health and human services shall establish a pilot project for improving and tracking evidence-based outcomes for providers of children's mental health services and developing performance-based reimbursement options for providers that are identified by an interim study on improved youth outcomes. The department shall develop the pilot project in accordance with the provisions of [sections 1 through 3].

(3) The department of public health and human services shall collect and analyze existing performance data from existing providers and data related to the pilot project in order to determine its effectiveness and to evaluate whether the use of performance-based reimbursement for services should be extended to other services, geographic regions, or populations.

(4) The purpose of the pilot project is to:

(a) improve youth outcomes by stabilizing youth and their families with appropriate services and supports;

(b) improve the partnership and collaborative efforts between the department of public health and human services and providers of children's mental health services; and

(c) link documented outcomes to performance-based reimbursement options for providers, including but not limited to improvements in:

(i) achieving quality benchmarks;

(ii) integration and coordination of care;

(iii) individualized treatment and care plans;

(iv) focus on community-based services;

(v) efforts to ensure recovery and permanent placement for children who are receiving medicaid mental health services or who are in foster care under the supervision of the state; and

(vi) cost control.

(5) The legislature shall review the results of the pilot project to determine:

(a) if the project should be continued or expanded; and

(b) whether modifications are needed before the use of any evidence-based outcomes model is expanded to include additional children, providers, or services.

Section 2. Scope of pilot project. (1) The pilot project for improved youth outcomes provided for in [sections 1 through 3] may be designed to include services to children who are:

(a) enrolled in medicaid or the healthy Montana kids plan; or

(b) in foster care under the supervision of the state.

(2) Providers are eligible to participate in the pilot project if they:

(a) offer services to youth with serious emotional disturbance as defined by the department of public health and human services by rule;

(b) are licensed as:

(i) a mental health center as defined in 50-5-101;

(ii) a psychiatric residential treatment facility as defined by the department by rule; or

(iii) a child-placing agency under Title 52, chapter 8, part 1.

(3) (a) The pilot project may be limited in scope to a specific:

(i) number of children; and

(ii) geographic region.

(b) The geographic region must include both rural and urban populations.

Section 3. Interim study on improved youth outcomes — study activities. (1) The children, families, health, and human services interim committee shall recommend to the legislature a system for evidence-based outcomes for services provided to youth and options for performance-based reimbursement for providers.

(2) In recommending an evidence-based outcomes model for children's mental health services, the committee shall take into consideration:

(a) the current array of children's mental health services allowed for under the Montana medicaid state plan and any data the department of public health and human services has collected regarding the effectiveness of the services;

(b) the degree to which the array and effectiveness of services offered by a provider may factor into the reimbursement the provider receives under the pilot project;

(c) potential incentives for and risks of the evidence-based outcomes model under review;

(d) existing data that may be relevant to development of the model;

(e) the types of data that must be collected to evaluate the effectiveness of the model; and

(f) the need for changes to the state's information technology systems in order to collect and analyze data.

(3) The committee shall solicit information, research, and recommendations from interested parties, including but not limited to the department of public health and human services, providers of children's mental health services, the mental health program of the western interstate commission on higher education, organizations representing the interests of children with mental health disorders, and family members of children with mental health disorders.

(4) The committee shall hold at least one meeting outside of Helena during the interim to meet with medicaid providers and other interested parties to obtain comment on the elements of an evidence-based outcomes model that:

(a) will best meet the needs of Montana children; and

(b) takes into account the geographic and demographic features of the state.

(5) The committee shall recommend a model after reviewing, in conjunction with the department of public health and human services:

(a) the current medicaid reimbursement system for the services covered by [sections 1 through 3];

(b) the department's system for collecting data related to children's mental health services and payments for the services;

(c) evidence-based outcomes and performance-based reimbursement models used by other states, including enhanced tier payment systems; and

(d) research, recommendations, and other public comment submitted to the committee.

(6) The committee shall make a recommendation to the 2017 legislature on the scope of the pilot project as determined under [section 2(3)] including proposed legislation that contains an evidence-based outcomes model and identifies other elements of a pilot project, including performance-based reimbursement options, to be implemented on July 1, 2017.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [sections 1 through 3].

~~**Section 5. Appropriation.** There is appropriated $5,000 from the general fund to the legislative services division for the biennium beginning July 1, 2015, to carry out the interim study provided for in [section 3].~~

Section 6. Effective date. [This act] is effective July 1, 2015.

Section 7. Termination. [This act] terminates June 30, 2019.

Approved April 9, 2015

Note: The striking of section 5 was done by Governor's line item veto dated April 9, 2015.

CHAPTER NO. 266

[HB 447]

AN ACT ALLOWING A PERSON WHO PREVAILS IN AN ACTION TO ENFORCE THE CONSTITUTIONAL RIGHT TO PARTICIPATE TO BE AWARDED COSTS AND REASONABLE ATTORNEY FEES; AMENDING SECTION 2-3-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-114, MCA, is amended to read:

"2-3-114. Enforcement. *(1)* The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition of any person whose rights have been prejudiced. A petition pursuant to this section must be filed within 30 days of the date on which the ~~petitioner~~ *person* learns, or reasonably should have learned, of the agency's decision.

(2) A person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person's rights under Article II, section 8, of the Montana constitution may be awarded costs and reasonable attorney fees."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to proceedings initiated on or after [the effective date of this act].

Approved April 23, 2015

CHAPTER NO. 267

[HB 503]

AN ACT PROVIDING THAT LOSS INFORMATION RELATED TO INSURANCE MUST BE PROVIDED TO THE POLICYHOLDER ON REQUEST; INCLUDING LOSS RESERVES AS PART OF LOSS INFORMATION FOR WORKERS' COMPENSATION CLAIMS; LIMITING THE USES OF LOSS INFORMATION BY POLICYHOLDERS AND PROHIBITING FURTHER DISCLOSURE OF LOSS INFORMATION; AMENDING SECTION 39-71-606, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Disclosure of certain claim information on insurance policies. (1) On request of a policyholder, an insurer shall provide to the policyholder, or to an insurance producer designated by the policyholder, a list of claims charged against the policy.

(2) The information must include:

(a) the date and description of the claim;

(b) details relating to the cause and disposition of the claim; and

(c) a list of the claims charged against the policy, including payments made on each claim.

(3) The information must be provided within 10 days of the policyholder's request.

(4) The information provided under this section is confidential insurance information. The information may be used by the policyholder for internal management purposes or for procuring insurance products but may not be disclosed for any other purpose without the express written consent of the insurer.

(5) This section does not apply to workers' compensation insurance.

Section 2. Section 39-71-606, MCA, is amended to read:

"39-71-606. Insurer to accept or deny claim within 30 days of receipt — notice of benefits and entitlements to claimants — notice of denial — notice of reopening — notice to employer — *employer's right to loss information*. (1) Each insurer under any plan for the payment of workers' compensation benefits shall, within 30 days of receipt of a claim for compensation signed by the claimant or the claimant's representative, either accept or deny the claim and, if denied, shall inform the claimant and the department in writing of the denial.

(2) The department shall make available to insurers for distribution to claimants sufficient copies of a document describing current benefits and entitlements available under Title 39, chapter 71. ~~Upon~~ *On* receipt of a claim, each insurer shall promptly notify the claimant in writing of potential benefits and entitlements available by providing the claimant a copy of the document prepared by the department.

(3) Each insurer under plan No. 2 or No. 3 for the payment of workers' compensation benefits shall notify the employer of the reopening of the claim within 14 days ~~of~~ *after* the reopening of a claim for the purpose of paying compensation benefits.

(4) *(a)* ~~Upon the request of~~ *When requested by* an employer that ~~it~~ *an insurer currently* insures *or has insured in the immediately preceding 5 years or when requested by the employer's designated insurance producer*, an insurer shall ~~notify the employer of~~ *provide the loss information listed in subsection (4)(b) within 10 days of the request.*

(b) Loss information provided under this subsection (4) must include for the period requested:

(i) all date of injury or occupational disease data for the employer's claims;

(ii) payment data on the employer's closed claims; and

(iii) payment data and loss reserve amounts on the employer's open claims, including all compensation benefits that are ongoing and are being charged against that employer's account.

(c) The information provided under this subsection (4) is confidential insurance information. The information may be used by the employer for internal management purposes or for procuring insurance products but may not be disclosed for any other purpose without the express written consent of the insurer.

(5) Failure of an insurer to comply with the time limitations required in ~~this section~~ *subsections (1) and (3)* does not constitute an acceptance of a claim as a matter of law. However, an insurer who fails to comply with 39-71-608 or ~~this section~~ *subsections (1) and (3) of this section* may be assessed a penalty under 39-71-2907 if a claim is determined to be compensable by the workers' compensation court."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 15, part 11, and the provisions of Title 33, chapter 15, part 11, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 268

[SB 34]

AN ACT REVISING LAWS RELATED TO FUNDING AND ACCESS FOR THE SALE OF STATE CABIN OR HOME SITES; ALLOWING ADVANCE PAYMENT OF SURVEY COSTS; PROVIDING FOR ACCESS EASEMENTS TO CABIN OR HOME SITES; AMENDING SECTIONS 77-2-318, 77-2-325, AND 77-2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-2-318, MCA, is amended to read:

"77-2-318. Sale of leased cabin or home sites. (1) (a) The board shall, consistent with the board's constitutional fiduciary duty of attaining full market value, make available for sale within a reasonable period of time as provided in this part those lands that were state land cabin or home sites on May 6, 2013, at the request of a lessee or an improvement owner and with the consent of any mortgagee or other owner of an interest in the cabin or home site improvements, only if the requested sale is consistent with the board's constitutional fiduciary

duty of attaining full market value and with the provisions of this part and if the sale is approved by the board.

(b) (i) The disposition of proceeds of any sale of state land property pursuant to this section must comply with the provisions of 77-2-337.

(ii) The proceeds of any sale of cabin site improvements pursuant to this part must go to the owner of record of the improvements.

~~(2) The department shall have prepared a current certificate of survey for the property. The cost of preparation of the certificate of survey must be included in the settlement for improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.~~

~~(3)~~*(2)* The sale of a ~~lease~~ *cabin or home site* is exempt from the subdivision laws, except that the development of any new, replacement, or additional water supply or sewage disposal system on the property must be approved pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

~~(4)~~*(3)* ~~By January 1, 2014, the~~ *The* board ~~shall~~ *may* adopt rules to ensure that the sales process authorized pursuant to this section is orderly and consistent with its constitutional fiduciary duties and that the number of leased cabin or home sites made available for sale at any given time is consistent with the board's constitutional duty of attaining full market value.

~~(5)~~*(4)* Upon a sale of ~~leased land~~ *a cabin or home site*, the ~~department~~ *board* ~~shall~~, *may:*

(a) ~~upon compliance with 77-2-101 through 77-2-106,~~ grant a permanent easement across state lands to secure access using current routes*; or*

(b) convey an appurtenant, nonexclusive easement to the property from the nearest public road if:

(i) the board has authority to grant the easement; and

(ii) the conveyance of the easement does not overburden a right-of-way held by the board.

(5) The appraised value and minimum bid for a cabin or home site must include the value of the easement granted pursuant to subsection (4).

(6) For purposes of this section, "cabin site improvements" has the meaning provided in 77-2-317."

Section 2. Section 77-2-325, MCA, is amended to read:

"77-2-325. Settlement for improvements. ~~If~~ *Except for the sale of a cabin or home site, if* any state land is sold on which there are improvements belonging to a lessee and some person other than the lessee is the purchaser, that person shall settle with the lessee for all improvements on the land belonging to the lessee before the issuance of the certificate of purchase. The provisions of 77-6-301 through 77-6-303 and 77-6-306 relating to the payment and settlement for improvements on state lands between a former lessee and a new lessee apply to the settlement between a lessee and the purchaser. If settlement is not reached within 6 months of the date of sale, all improvements become the property of the state unless the department for good cause shown grants both parties additional time in which to exhaust arbitration."

Section 3. Section 77-2-363, MCA, is amended to read:

"77-2-363. Land banking land sales and limitations — sale preparation costs. (1) (a) The board may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any one time during the life of the land banking process,

the board may not sell more than 20,000 acres of state land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

(b) The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser.

(2) (a) A person bidding to purchase state land offered for sale shall 20 days prior to the day of auction deposit with the department a bid bond in the form of a certified check or cashier's check drawn on any Montana bank equal to at least 20% of the minimum sale price specified by the department pursuant to 77-2-323(1) to guarantee the bidder's payment of the purchase price. Bid bonds submitted to secure a bid on a parcel formerly leased as a cabin or home site need only be equal to 5% of the minimum sale price as specified by the department.

(b) If the current lessee of the land to be sold has initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the department at least 10 days prior to the day of the auction. When the sale is canceled by the lessee, the lessee shall pay the costs incurred by the department for the preparation of the sale, including any costs incurred for preparation of documents required by 75-1-201.

(c) The department shall retain the bid bond of the successful bidder and shall return the bid bonds of the unsuccessful bidders. If the successful bidder fails to comply with the terms of the sale for any reason, the successful bidder's bid bond must be forfeited and credited to the interest and income account of the proper trust.

(3) Except for a sale that is initiated by the lessee of the parcel of land proposed for sale, prior to the proposed sale of any parcel of state land under the land banking process, the board shall give 60 days' notice of the proposed sale to the lessee of the parcel to allow the lessee sufficient time to determine whether the lessee wishes to propose an exchange of the land to the board.

(4) For a sale initiated by the board, the department, or the cabin or home site lessee, the lessee of the land must be afforded all the rights and privileges to match the high bid as provided in 77-2-324.

(5) (a) Except as provided in subsection (6), when the lessee has initiated a sale of land under this section, the lessee shall remit to the department the estimated costs of preparing the parcel for sale, including but not limited to appraisals, cultural surveys, environmental review pursuant to Title 75, chapter 1, parts 1 through 3, and land surveys, if necessary. Payment must be made within 10 days after the board has provided preliminary approval for the sale of the parcel.

(b) If the parcel is sold to the lessee, the funds remitted for the costs of the sale must be applied to the actual costs at closing. If the parcel is sold to a party other than the lessee, the funds remitted by the lessee must be refunded to the lessee and actual costs of preparing the parcel for sale must be assessed to the purchaser at closing.

(6) For the sale of ~~a parcel formerly leased as~~ a cabin or home site~~:~~

~~(a)~~ *,* the department shall *prepare and* assume the cost of the land survey~~;~~ ~~and~~. *The department may allow the survey to be paid for in advance by the lessee or the owner of any improvements if the survey is contracted through the department according to department specifications. If the parcel is sold but the purchaser is other than the lessee or the owner of the improvements, the cost of the survey must be included in the actual costs at closing and the department shall refund the cost of the survey to the former lessee or the owner of the improvements.*

~~(b)~~*(7)* ~~the~~ *The* sale *of a cabin or home site* is exempt from the provisions of Title 75, chapter 1, parts 1 through 3."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 269

[SB 57]

AN ACT REVISING WATER RIGHTS ADJUDICATION LAWS; REVISING PROVISIONS OF THE WATER ADJUDICATION ACCOUNT; REVISING DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PERFORMANCE BENCHMARKS RELATED TO WATER RIGHTS ADJUDICATION; REVISING REPORTING REQUIREMENTS RELATED TO WATER RIGHTS ADJUDICATION; AMENDING SECTIONS 17-7-102, 85-2-231, 85-2-237, 85-2-270, 85-2-271, 85-2-280, 85-2-281, AND 85-2-282, MCA; AMENDING SECTION 18, CHAPTER 288, LAWS OF 2005, AND SECTION 11, CHAPTER 319, LAWS OF 2007; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-102, MCA, is amended to read:

"17-7-102. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(b) The term does not include:

(i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

(ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in 75-11-521 are not met.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 11, Ch. 319, L. 2007~~.)

17-7-102. (Effective July 1, ~~2020~~ *2028*) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of

Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

Section 2. Section 85-2-231, MCA, is amended to read:

"85-2-231. Temporary preliminary and preliminary decree. (1) A water judge may issue a temporary preliminary decree prior to the issuance of a preliminary decree if the temporary preliminary decree is necessary for the orderly adjudication or administration of water rights.

(2) (a) The water judge shall issue a preliminary decree. The preliminary decree must be based on:

(i) the statements of claim before the water judge;

(ii) the data submitted by the department;

(iii) the contents of compacts approved by the Montana legislature and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights; and

(iv) any additional data obtained by the water judge.

(b) The preliminary decree must be issued within 90 days after the close of the special filing period set out in 85-2-702(3) or as soon after the close of that period as is reasonably feasible.

(c) The water judge may issue an interlocutory decree if an interlocutory decree is otherwise necessary for the orderly administration of water rights.

(3) A temporary preliminary decree may be issued for any hydrologically interrelated portion of a water division, including but not limited to a basin, subbasin, drainage, subdrainage, stream, or single source of supply of water, or any claim or group of claims at a time different from the issuance of other temporary preliminary decrees.

(4) The temporary preliminary decree or preliminary decree must contain the information and make the determinations, findings, and conclusions required for the final decree under 85-2-234.

(5) If the water judge is satisfied that the report of the water master meets the requirements for the preliminary decree and is satisfied with the conclusions contained in the report, the water judge shall adopt the report as the preliminary decree. If the water judge is not satisfied, the water judge may recommit the report to the master with instructions or modify the report and issue the preliminary decree.

(6) The department shall examine claims in basins that were verified rather than examined as ordered by the water court. The objection and hearing provisions of Title 85, chapter 2, part 2, apply to these claims. (Subsection (6) terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005~~.)"

Section 3. Section 85-2-237, MCA, is amended to read:

"85-2-237. (Temporary) Reopening and review of decrees. (1) After July 1, 1996, the water judges shall by order reopen and review, within the limits set forth by the procedures described in this section, all preliminary or final decrees:

(a) that have been issued but have not been noticed throughout the water divisions;

(b) for basins for which claims have been filed under 85-2-221(3); or

(c) for basins that were verified and not examined for which the water court has received a petition and has determined that examination is necessary as provided in 85-2-282 or the water court has issued an order for reexamination on its own initiative.

(2) (a) Each order must state that the water judge will reopen the decree or decrees and, upon a hearing, review the water court's determination of any claim in the decree or decrees if an objection to the claim has been filed for the purpose of protecting rights to the use of water from sources:

(i) within the basin for which the decree was entered; or

(ii) in other basins that are hydrologically connected to sources within the basin for which the decree was entered.

(b) A person may not raise an objection to a matter in a reopened decree if the person was a party to the matter when the matter was previously litigated and resolved as the result of the previous objection process, unless the objection is allowed for any of the following reasons:

(i) mistake, inadvertence, surprise, or excusable neglect;

(ii) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), Montana Rules of Civil Procedure;

(iii) fraud, misrepresentation, or other misconduct of an adverse party;

(iv) the judgment is void;

(v) any other reason justifying relief from the operation of the judgment.

(c) The objection must be made in accordance with the procedure for filing objections under 85-2-233.

(3) The water judges shall serve notice by mail of the entry of the order providing for the reopening and review of a decree or decrees to the department and to the persons entitled to receive service of notice under 85-2-232(1).

(4) Notice of the reopening and review of a preliminary or final decree must also be published at least once each week for 3 consecutive weeks in at least three newspapers of general circulation that cover the water division or divisions in which the decreed basin is located.

(5) An objection may not cause a reopening and review of a claim unless the objection is filed with the appropriate water court within 180 days after the issuance of the order under subsection (1). This period of time may, for good cause shown, be extended by the water judge for up to two 90-day periods if an application for extension is made within the original 180-day period or any extension of it.

(6) The water judge shall provide notice to the claimant of any timely objection to the claim and, after further reasonable notice to the claimant, the objector or objectors, and other interested persons, set the matter for hearing. The water judge may conduct individual or consolidated hearings, and any hearing must be conducted according to the Montana Rules of Civil Procedure. On an order of the water judge, a hearing may be conducted by a water master, who shall prepare a report of the hearing as provided in Rule 53(e), Montana Rules of Civil Procedure.

(7) The water judge shall, on the basis of any hearing held on the matter, take action as warranted from the evidence, including dismissal of the objection or modification of the portion of the decree describing the contested claim.

(8) An order or decree modifying a previously issued final decree as a result of procedures described in this section may be appealed in the same manner as provided for an appeal taken from a final order of a district court.

(9) An order or decree modifying a previously issued preliminary decree as a result of procedures described in this section may be appealed under 85-2-235 when the preliminary decree has been made a final decree.

(10) An order requiring the department to examine a basin that was initially verified is limited to the types of claims in the basin that were identified in the petition as provided in 85-2-282 or the types of claims identified in an order that the water court issued on its own initiative. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005~~.)

85-2-237. (Effective July 1, ~~2020~~ *2028*) Reopening and review of decrees. (1) After July 1, 1996, the water judges shall by order reopen and review, within the limits set forth by the procedures described in this section, all preliminary or final decrees:

(a) that have been issued but have not been noticed throughout the water divisions; or

(b) for basins for which claims have been filed under 85-2-221(3).

(2) (a) Each order must state that the water judge will reopen the decree or decrees and, upon a hearing, review the water court's determination of any claim in the decree or decrees if an objection to the claim has been filed for the purpose of protecting rights to the use of water from sources:

(i) within the basin for which the decree was entered; or

(ii) in other basins that are hydrologically connected to sources within the basin for which the decree was entered.

(b) A person may not raise an objection to a matter in a reopened decree if the person was a party to the matter when the matter was previously litigated and resolved as the result of the previous objection process, unless the objection is allowed for any of the following reasons:

(i) mistake, inadvertence, surprise, or excusable neglect;

(ii) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), Montana Rules of Civil Procedure;

(iii) fraud, misrepresentation, or other misconduct of an adverse party;

(iv) the judgment is void;

(v) any other reason justifying relief from the operation of the judgment.

(c) The objection must be made in accordance with the procedure for filing objections under 85-2-233.

(3) The water judges shall serve notice by mail of the entry of the order providing for the reopening and review of a decree or decrees to the department and to the persons entitled to receive service of notice under 85-2-232(1).

(4) Notice of the reopening and review of a preliminary or final decree must also be published at least once each week for 3 consecutive weeks in at least three newspapers of general circulation that cover the water division or divisions in which the decreed basin is located.

(5) No objection may cause a reopening and review of a claim unless the objection is filed with the appropriate water court within 180 days after the issuance of the order under subsection (1). This period of time may, for good cause shown, be extended by the water judge for up to two 90-day periods if an application for extension is made within the original 180-day period or any extension of it.

(6) The water judge shall provide notice to the claimant of any timely objection to the claim and, after further reasonable notice to the claimant, the objector or objectors, and other interested persons, set the matter for hearing. The water judge may conduct individual or consolidated hearings, and any hearing must be conducted according to the Montana Rules of Civil Procedure. On an order of the water judge, a hearing may be conducted by a water master, who shall prepare a report of the hearing as provided in Rule 53(e), Montana Rules of Civil Procedure.

(7) The water judge shall, on the basis of any hearing held on the matter, take action as warranted from the evidence, including dismissal of the objection or modification of the portion of the decree describing the contested claim.

(8) An order or decree modifying a previously issued final decree as a result of procedures described in this section may be appealed in the same manner as provided for an appeal taken from a final order of a district court.

(9) An order or decree modifying a previously issued preliminary decree as a result of procedures described in this section may be appealed under 85-2-235 when the preliminary decree has been made a final decree."

Section 4. Section 85-2-270, MCA, is amended to read:

"85-2-270. (Temporary) Findings — purpose. (1) The purpose of 85-2-271, 85-2-280 through 85-2-282, and this section is to:

(a) complete claims examination and the initial decree phase;

(b) reexamine claims in basins that were verified and were not subject to the supreme court examination rules when the water court has received a petition and issued an order pursuant to 85-2-282 or the water court has issued an order on its own initiative; and

(c) ensure that the product of the adjudication is enforceable decrees.

(2) With adequate funding, it is realistic and feasible for the department to complete claims examination and reexamination of verified basins for which the water court has received a petition and issued an order pursuant to 85-2-282 or the water court has issued an order on its own initiative by June 30, 2015. It is also realistic and feasible for the water court to issue a preliminary or temporary preliminary decree by June 30, 2020, for all basins in Montana. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007~~.)"

Section 5. Section 85-2-271, MCA, is amended to read:

"85-2-271. (Temporary) Benchmarks — action taken if not met — claims examination priority. ~~(1) (a) The completion of initial claims examination is of a higher priority than reexamination of claims that were subject to the verification process unless the chief water judge issues an order making reexamination a higher priority, as provided in subsection (3)(b).~~

~~(b) The department shall develop a list of basins to be examined that is prioritized by year and updated annually. In order to facilitate the efficient use of department and water court resources, the department shall adhere to the basin priorities unless directed otherwise by the water court or the legislature.~~

~~(2) There are approximately 57,000 water right claims that were filed pursuant to 85-2-212 that must be examined. There are approximately 98,000 claims that were verified that may be reexamined using the supreme court examination rules if the water court receives a petition and issues an order as provided in 85-2-282 or the water court issues an order on its own initiative.~~

~~(3)~~*(1)* (a) The water court shall prioritize basins for the purpose of claims examination and reexamination by the department.

(b) The chief water judge has the authority to order that reexamination be completed for a certain basin in a higher priority than claims examination. If the chief water judge issues an order requiring the department to reexamine claims rather than examining claims, the number of claims that were reexamined must be counted against the amount of claims that the department is required to examine for that period.

~~(4)~~*(2)* (a) The ~~cumulative~~ benchmarks that are provided in subsection ~~(4)(b)~~ *(2)(b)* must be met. If the benchmarks are not met, money for water adjudication may not be included in the department's base budget. ~~All claims must be examined by June 30, 2015.~~

(b) The ~~cumulative~~ benchmarks are as follows:

~~Date~~	~~Total Number of Claims Examined~~
~~December 31, 2006~~	~~8,000~~
~~December 31, 2008~~	~~19,000~~
~~December 31, 2010~~	~~31,000~~
~~December 31, 2012~~	~~44,000~~
~~June 30, 2015~~	~~57,000~~

(i) the department shall reexamine 10,000 verified claims by June 30, 2017;

(ii) the department shall reexamine 30,000 verified claims by June 30, 2019;

(iii) the department shall reexamine 60,000 verified claims by June 30, 2021; and

(iv) the department shall reexamine 90,000 verified claims by June 30, 2023.

(Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007~~.)"

Section 6. Section 85-2-280, MCA, is amended to read:

"85-2-280. (Temporary) Water adjudication account. (1) There is a water adjudication account within the state special revenue fund created in 17-2-102.

(2) ~~(a) Subject to legislative fund transfers, for the period ending June 30, 2015, there is allocated to the department and the water court up to $2.6 million, plus the approved inflation factor contained in the revenue estimating resolution, each fiscal year from the water adjudication account~~ *On July 1 of each fiscal year, the state treasurer shall transfer the amount necessary when combined with available and unencumbered fund balance, to fund the amount appropriated by the legislature in the general appropriation act from the state general fund to the water adjudication account* for the sole purpose of funding the water adjudication program *within the department and the water court*. ~~These funds may not be used for the purpose of updating or maintaining a computer database.~~

~~(b) For the period beginning July 1, 2015, and ending June 30, 2020, there is allocated to the department and the water court up to $1 million, plus the approved inflation factor contained in the revenue estimating resolution, each~~

~~fiscal year from the account for the sole purpose of funding the water adjudication program.~~

~~(c) The allocations in subsections (2)(a) and (2)(b) are subject to appropriation by the legislature.~~

(3) Interest and income earnings on the water adjudication account must be deposited in the account *and may not be transferred to any other account prior to June 30, 2028*.

(4) Money remaining in the water adjudication account on ~~June 30, 2020,~~ *June 30, 2028,* must be transferred to the water right appropriation account provided for in 85-2-318.

(5) If the accountability benchmarks contained in 85-2-271 are not met, expenditures from the account in the previous biennium may not be included in the department's base budget, as defined in 17-7-102, for the current biennium. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007~~.)"

Section 7. Section 85-2-281, MCA, is amended to read:

"85-2-281. (Temporary) Reporting requirements. The department and the water court shall:

(1) provide reports to the environmental quality council ~~at each meeting~~ *annually and to the water policy interim committee quarterly* during a legislative interim on:

(a) the progress of the adjudication on a basin-by-basin basis; ~~and~~

(b) the number of basins for which examination was completed during the reporting period;

(c) the number and type of decrees issued in the preceding year and in each quarter of the current year and an update on summary reports in review;

(d) the number of claims resolved each month in the preceding year;

(e) the percentage of claims resolved by basin, limited to basins under active review by the water court, after issuance of a decree and passage of the deadline of the notices of intent to appear; and

(f) compact status describing compacts approved by the water court and pending compacts.

(2) include a status report on the adjudication in their presentation to the applicable appropriation subcommittees during each legislative session including the number of basins for which examination was completed during the reporting period; and

(3) provide a budget that outlines how each of the entities will be funded in the next biennium, including general fund money and state special revenue funds. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005; sec. 11, Ch. 319, L. 2007~~.)"

Section 8. Section 85-2-282, MCA, is amended to read:

"85-2-282. (Temporary) Examination of claims in verified basins. (1) At any time prior to the issuance of a final decree, in basins that were evaluated using the verification process rather than the examination process, the owners of water rights in the basin or a specified area in the basin may petition the water court to examine claims in the basin or an area in the basin pursuant to the supreme court rules.

(2) The owners of at least 15% of the number of water rights affected by the proposed reexamination shall sign the petition.

(3) At a minimum, the petition must provide:

(a) the specific water right purpose or water right purposes to be examined; and

(b) the elements to be examined.

(4) (a) The water judge shall evaluate each petition and determine if reexamination is necessary to provide greater accuracy to the adjudication.

(b) The water judge may request public comment on the petition.

(5) If the water judge determines reexamination should be conducted, the water judge shall issue an order that provides:

(a) what water right purpose or water right purposes must be examined by the department;

(b) the elements to be examined;

(c) final disposition of the reexamination information developed by the department; and

(d) the timeframe in which the reexamination must be completed.

(6) The water court may issue an order requiring reexamination on its own initiative. The order must provide the information contained in subsection (5).

(7) Upon receipt of the reexamination information from the department, the water court shall notify the users in the basin or the specified area in the basin identified in the petition of the final results of the reexamination and shall notify them regarding further steps or actions being taken as a result of the reexamination.

(8) Any actions taken as a result of the reexamination must be conducted in accordance with this part. (Terminates June 30, ~~2020~~ *2028* ~~—sec. 18, Ch. 288, L. 2005~~.)"

Section 9. Coordination instruction. If both Senate Bill 82 and [this act] are passed and approved, then the words "annually and to the" in 85-2-281 are deleted and the introductory language in 85-2-281(1) must read:

"(1) provide reports to the water policy committee quarterly during a legislative interim on:"

Section 10. Section 18, Chapter 288, Laws of 2005, is amended to read:

"**Section 18. Termination.** [This act] terminates June 30, ~~2020~~ *2028*."

Section 11. Section 11, Chapter 319, Laws of 2007, is amended to read:

"**Section 11. Termination.** [Sections 2 through 5 and 7] terminate June 30, ~~2020~~ *2028*."

Section 12. Effective date. [This act] is effective July 1, 2015.

Approved April 23, 2015

CHAPTER NO. 270

[SB 168]

AN ACT PROTECTING THE EDUCATIONAL RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE UNITED STATES ARMED FORCES AND THE MONTANA NATIONAL GUARD; CREATING THE MONTANA MILITARY SERVICE HIGHER EDUCATION ACT; PROVIDING CERTAIN ACADEMIC AND FINANCIAL PROTECTIONS FOR STUDENTS CALLED TO ACTIVE DUTY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 6] may be cited as the "Montana Military Service Higher Education Act".

Section 2. Purpose. The purpose of [sections 1 through 6] is to protect the educational rights of members of the reserve armed forces of the United States and of the Montana national guard who are students at a Montana educational institution and whose education is interrupted by mandatory mobilization to active duty.

Section 3. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) (a) "Active duty" means federally funded duty performed pursuant to orders issued under Title 10 or Title 32 of the United States Code, state active duty performed pursuant to Article VI, section 13, of the Montana constitution, or state duty for special work performed pursuant to 10-1-505.

(b) The term does not include active duty for regularly scheduled weekend or annual training or active duty ordered by request of the service member.

(2) "Educational institution" means an institution of higher education under the jurisdiction of the board of regents.

(3) "Eligible student" means a member of a reserve component of the United States armed forces as defined in 38 U.S.C. 101, or of the Montana national guard as defined in 10-1-101.

(4) "Same academic status" means the same:

(a) certificate or degree program; and

(b) standing or progress within a certificate or degree program.

Section 4. Student rights. (1) An eligible student may not be denied admission or readmission to an educational institution on the basis of the student's membership in the reserve component of the United States armed forces or in the Montana national guard.

(2) If an eligible student is ordered to active duty while enrolled in one or more courses at an educational institution, the faculty shall, when consistent with accreditation requirements:

(a) assign a final passing grade in the course if, in the faculty's judgment, enough of the course requirements have been completed;

(b) assign an incomplete in the course and extending the period of time in which the student may complete course requirements; or

(c) allow the student to withdraw from the course and receive financial credit as provided in [section 5].

(3) If an eligible student reenrolls in one or more courses at an educational institution within 12 months after returning from the active duty that interrupted the student's previous enrollment at the institution, the student must, to the extent possible, be readmitted with the same academic status that the student had when ordered to active duty, unless the student requests or agrees to admission with a different academic status.

Section 5. Financial credit — readmission fees prohibited — refund. (1) Except as provided in subsection (2):

(a) If an eligible student reenrolls at an educational institution within 12 months after returning from the active duty that interrupted the student's previous enrollment at the institution, the student must receive financial credit for the amount of tuition and fees previously paid by or on behalf of the student for any course or courses the student withdrew from pursuant to [section 4].

(b) The student must be allowed to apply the amount of the financial credit toward any tuition and fees charged for courses the student enrolls in after being readmitted to the institution.

(c) The student may not be charged any readmission fees.

(d) If a student does not reenroll within the timeframe required under subsection (1) due to an illness or injury, including post-traumatic stress disorder, documented by a licensed physician and incurred while performing the active duty, the student is entitled to a refund of the amount of the tuition and fees previously paid by or on behalf of the student for any course or courses the student withdrew from pursuant to [section 4].

(2) If the provisions of subsection (1) are inconsistent with the requirements of a financial aid provider, the higher education institution must provide the student with the greatest benefit allowable under the requirements of the provider.

Section 6. Policy to ensure student protections. The commissioner of higher education may develop a policy for action by the board of regents that is consistent with the goals and steps in [sections 1 through 5] to ensure academic protections for students called to active duty.

Section 7. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to [sections 1 through 6].

Section 8. Effective date. [This act] is effective August 1, 2015.

Approved April 23, 2015

CHAPTER NO. 271

[SB 183]

AN ACT REVISING MILK LICENSING ASSESSMENTS; REQUIRING MONTHLY PAYMENTS; ELIMINATING AUTOMATIC TERMINATION OF A LICENSE FOR NONPAYMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 81-23-202, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-23-202, MCA, is amended to read:

"81-23-202. Licenses — disposition of income. (1) A producer, producer-distributor, distributor, or jobber may not engage in the business of producing or selling milk subject to this chapter in this state without first having obtained a license from the department as provided in 81-22-202 or, in the case of milk entering this state from another state or foreign nation, without complying with the requirements of the Montana Food, Drug, and Cosmetic Act and without being licensed under this chapter by the board. The annual fee for the license is $2, is due before July 1, and must be deposited by the department in the general fund. The license required by this chapter is in addition to any other license required by state law or any municipality of this state. This chapter applies to every part of the state of Montana.

(2) In addition to the annual license fee, the board shall, in each year, before April 1, for the purpose of securing funds to administer and enforce this chapter, levy an assessment upon producers, producer-distributors, and distributors as follows:

(a) a fee per hundredweight on the total volume of all milk subject to this chapter produced and sold by a producer-distributor;

(b) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a producer;

(c) a fee per hundredweight on the total volume of all milk subject to this chapter sold by a distributor, excepting that which is sold to another distributor.

(3) The board shall adopt rules fixing the amount of each fee. The amounts may not exceed levels sufficient to provide for the administration of this chapter. The fee assessed on a producer or on a distributor may not be more than one-half the fee assessed on a producer-distributor.

(4) (a) In addition to the fees established in subsections (1) through (3), the department shall assess a fee per hundredweight on the volume of all classes of milk produced and sold by a person licensed by the department to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department. The fee must be established pursuant to 81-1-102(2).

(b) A person licensed by the department shall report to the department on a monthly basis the volume of milk produced. All reporting documentation must be submitted on forms approved or provided by the department.

(5) The assessments upon producer-distributors, producers, and distributors must be paid ~~quarterly before January 15, April 15, July 15, and October 15 of each year~~ *before the 25th day of each month*. The amount of the assessments must be computed by applying the fee designated by the board and the fee established in subsection (4) to the volume of milk sold in the preceding ~~calendar quarter~~ *month*.

(6) Failure of a producer-distributor, producer, or distributor to pay an assessment when due is a violation of this chapter, and ~~a license under this chapter automatically terminates and is void~~ *the board may revoke a license upon due cause and after a hearing. A licensee shall pay all assessments accrued through the date a license is revoked under this section*. A ~~terminated~~ *revoked* license must be reinstated by the board upon payment of *all accrued assessments and* a delinquency fee ~~equal to 30% of the assessment that was due~~ *established by rule*.

(7) All assessments required by this chapter must be deposited by the department in the state special revenue fund. All costs of administering chapter 22 and this chapter, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of chapter 22 and this chapter, must be paid out of the board money in that fund.

(8) The board may, if it finds the costs of administering and enforcing this chapter can be derived from lower rates, amend its rules to fix the rates at a less amount on or before April 1 in any year."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 23, 2015

CHAPTER NO. 272

[SB 209]

AN ACT REGULATING THE USE OF VEHICLE EVENT DATA RECORDERS; CLARIFYING OWNERSHIP OF VEHICLE EVENT DATA AND THE OWNERSHIP OF VEHICLE DATA UPON TRANSFER OF A VEHICLE; AUTHORIZING A COURT TO ORDER PRODUCTION OF VEHICLE DATA WITH A SEARCH WARRANT; AND PROVIDING FOR THE RELEASE OF VEHICLE EVENT DATA IN CERTAIN CASES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Event data recorder" has the meaning provided in 49 C.F.R 563.5 as in effect on October 1, 2011.

(2) "Owner" means a person:

(a) in whose name a motor vehicle is registered or titled;

(b) who leases a motor vehicle for at least 3 months;

(c) who is entitled to possession of a motor vehicle as the purchaser under a security agreement; or

(d) who is the attorney in fact, conservator, or personal representative for a person described in subsection (2)(a) through (2)(c).

Section 2. Ownership of recorded data. Except as provided in [section 4], the data on a motor vehicle event data recorder is exclusively owned by the owner or owners of the motor vehicle and may not be retrieved or used by any person other than an owner of the motor vehicle without the written consent of an owner.

Section 3. Effect of vehicle ownership transfer on ownership of data — prohibited insurer and lessor actions. (1) Data on a motor vehicle event data recorder does not become the property of a lienholder or insurer solely because the lienholder or insurer succeeds in ownership of a motor vehicle as a result of an accident.

(2) An insurer may not condition the payment or settlement of an owner's claim on the owner's consent to the retrieval or use of the data on a motor vehicle event data recorder.

(3) An insurer or lessor of a motor vehicle may not require an owner to consent to the retrieval or use of the data on a motor vehicle event data recorder as a condition of providing the policy or lease.

Section 4. Retrieval or use of data — exceptions. (1) Data from a motor vehicle event data recorder may be retrieved or used without the consent of the owner:

(a) if a court orders the production of the data pursuant to a valid search warrant;

(b) to facilitate or determine the need for emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including the retrieval of data from a company that provides subscription services to the owner of a motor vehicle for in-vehicle safety and security communications systems;

(c) by order of the district court provided that the owner has notice and 48 hours to object and request a hearing; or

(d) for the purposes of improving motor vehicle safety, security, or traffic management and provided that the identity of the owner or driver is not disclosed in connection with that retrieved data. For purposes of this subsection (1)(d), the disclosure of the vehicle identification number with the last 6 digits deleted does not constitute disclosure of the identity of the owner or driver.

(2) [Sections 1 through 4] do not apply to data that is stored or transmitted pursuant to a subscription service agreement for the use of a recording device to record a history of where a motor vehicle travels or for the transmission of data to a central communications system.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 4].

Section 6. Coordination instruction. If both [this act] and House Bill No. 345 are passed and approved, then House Bill No. 345 is void.

Approved April 23, 2015

CHAPTER NO. 273

[SB 219]

AN ACT REQUIRING AUTOMATIC DISMISSAL OF CHARGES FOLLOWING COMPLETION OF A DEFERRED IMPOSITION OF SENTENCE FOR A FELONY CONVICTION; AMENDING SECTION 46-18-204, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-204, MCA, is amended to read:

"46-18-204. Dismissal after deferred imposition. *(1)* Whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred or upon termination of the time remaining on a deferred sentence under 46-18-208~~,~~*:*

(a) for a felony conviction, ~~upon motion of the court, the defendant, or the defendant's attorney,~~ the court ~~may allow the defendant to withdraw a plea of guilty or nolo contendere or may~~ *shall* strike the verdict of guilty from the record and order that the charge or charges against the defendant be dismissed *provided that a petition for revocation under 46-18-203 has not been filed~~.~~; or*

(b) for a misdemeanor conviction, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw a plea of guilty or nolo contendere or may strike the verdict of guilty from the record and order that the charge or charges against the defendant be dismissed.

(2) A copy of the order of dismissal must be sent to the prosecutor and the department of justice, accompanied by a form prepared by the department of justice and containing identifying information about the defendant. After the charge is dismissed, all records and data relating to the charge are confidential criminal justice information, as defined in 44-5-103, and public access to the information may be obtained only by district court order upon good cause shown."

Section 2. Applicability. [This act] applies to cases filed after [the effective date of this act].

Approved April 23, 2015

CHAPTER NO. 274

[SB 220]

AN ACT ABOLISHING THE ELECTRONIC GOVERNMENT ADVISORY COUNCIL; TRANSFERRING THE COUNCIL'S DUTIES TO THE INFORMATION TECHNOLOGY BOARD; REQUIRING A REPORT TO THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE; AMENDING SECTIONS 2-17-513, 2-17-1102, AND 2-17-1103, MCA; REPEALING SECTION 2-17-1105, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-513, MCA, is amended to read:

"2-17-513. Duties of board. The board shall:

(1) provide a forum to:

(a) guide state agencies, the legislative branch, the judicial branch, and local governments in the development and deployment of intergovernmental information technology resources;

(b) share information among state agencies, local governments, and federal agencies regarding the development of information technology resources;

(2) advise the department*:*

(a) in the development of cooperative contracts for the purchase of information technology resources;

(b) regarding the creation, management, and administration of electronic government services and information on the internet;

(c) regarding the administration of electronic government services contracts;

(d) on the priority of government services to be provided electronically;

(e) on convenience fees prescribed in 2-17-1102 and 2-17-1103, if needed, for electronic government services; and

(f) on any other aspect of providing electronic government services;

(3) review and advise the department on:

(a) statewide information technology standards and policies;

(b) the state strategic information technology plan;

(c) major information technology budget requests;

(d) rates and other charges for services established by the department as provided in 2-17-512(1)(t);

(e) requests for exceptions as provided for in 2-17-515;

(f) notification of proposed exemptions by the university system and office of public instruction as provided for in 2-17-516;

(g) action taken by the department as provided in 2-17-514(1) for any activity that is not in compliance with this part;

(h) transfer of information technology funds, resources, and employees as provided for in 2-17-531; ~~and~~

(i) the implementation of major information technology projects and advise the respective governing authority of any issue of concern to the board relating to implementation of the project; *and*

(j) financial reports, management reports, and other data as requested by the department;

(4) study state government's present and future information technology needs and advise the department on the use of emerging technology in state government; ~~and~~

(5) request information and reports that it considers necessary from any entity using or having access to the statewide telecommunications network or central computer center~~.~~*;*

(6) assist in identifying, evaluating, and prioritizing potential departmental and interagency electronic government services;

(7) serve as a central coordination point for electronic government services provided by the department and other state agencies;

(8) study, propose, develop, or coordinate any other activity in furtherance of electronic government services as requested by the governor or the legislature; and

(9) prepare and submit to the state administration and veterans' affairs interim committee by September 15 in the year preceding the regular legislative session and in the manner provided in 5-11-210 a report including but not necessarily limited to a summary of the board's activities, a review of the electronic government program established under part 11 of this chapter, and any key findings and recommendations that the board presented to the department."

Section 2. Section 2-17-1102, MCA, is amended to read:

"2-17-1102. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1) "Advisory council" means the electronic government advisory council established in 2-17-1105.~~

~~(2)~~*(1)* "Convenience fee" means a fee charged to recover the costs of providing electronic government services.

~~(3)~~*(2)* "Costs" means the overall costs that the department may incur to provide electronic government services, including the costs of contracts entered into with private entities to assist in providing electronic government services.

~~(4)~~*(3)* "Department" means the department of administration provided for in 2-15-1001.

~~(5)~~*(4)* "Infrastructure" means the underlying technology necessary to provide electronic government services."

Section 3. Section 2-17-1103, MCA, is amended to read:

"2-17-1103. Responsibilities of department for electronic government. (1) The department shall:

(a) provide the ability for state agencies to offer electronic government services by providing a reasonable and secure infrastructure;

(b) provide a point of entry for electronic government services to achieve a single face of government;

(c) encourage a common look and feel for all electronic government services for the benefit of the customers of the services;

(d) set technological standards for electronic government services;

(e) use technology that enables the greatest number of customers to obtain access to electronic government services;

(f) promote the benefits of electronic government services through educational, marketing, and outreach initiatives;

(g) *promote transparency in information management; and*

(h) share and coordinate information with political subdivisions whenever possible.

(2) To fulfill the responsibilities in subsection (1), the department may contract with private entities. The department may charge convenience fees and may allow private entities to collect the convenience fees on selected electronic government services in order to provide funding for the support and furtherance of electronic government services. ~~The advisory council may advise the department on the amount of fees and the services on which to charge fees.~~

(3) The department or a private entity under a contract as provided in subsection (2) may not use any data associated with providing electronic government services for any purpose that is not provided for by law."

Section 4. Repealer. The following section of the Montana Code Annotated is repealed:

2-17-1105. Electronic government advisory council.

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved April 23, 2015

CHAPTER NO. 275

[SB 221]

AN ACT DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ATTEMPT TO DISPOSE OF THE WILLOW CREEK DAM PROJECT; AMENDING SECTION 85-1-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Willow Creek Dam water project is a state water project constructed in 1938, owned and managed by the Department of Natural Resources and Conservation, and operated by the Willow Creek Water Users Association; and

WHEREAS, the Legislature in the 1990s directed the Department to transfer and dispose of various state water projects throughout Montana to water users associations; and

WHEREAS, the Legislature in 2011 directed the Department to attempt to dispose of another dam project to a local water users association, which has been completed; and

WHEREAS, the Willow Creek Water Users Association has expressed interest in taking over the project from the Department, if economically feasible, owning and operating the system, making necessary repairs and improvements to the project so that water from the system could be used for the benefit of the users, and addressing shortcomings with the project that have not been addressed by the state and previous owners over the years.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-1-211, MCA, is amended to read:

"85-1-211. Management of property — water contracts. (1) Subject to this chapter, the department may fix and establish the prices, rates, and charges at which the resources and facilities made available under this chapter may be sold and disposed of and enter into contracts and agreements and do those things that in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this chapter, under general rules and upon terms, limitations, and conditions as it prescribes.

(2) The department shall enter into the contracts and fix and establish the prices, rates, and charges to provide at all times funds that are sufficient to pay all costs of operation and maintenance of the works authorized by this chapter, together with necessary repairs to the works, and that will provide at all times sufficient funds to meet and pay the principal and interest of all bonds or loans as they severally become due and payable.

(3) This chapter does not authorize any change, alteration, or revision of the rates, prices, or charges as established by a contract entered into under this chapter except as provided by the contract.

(4) A contract made by the department for the sale of water, use of water, water storage, or other service or for the sale of property or facilities must provide that, in the event of a failure or default in the payment of money

specified in the contract to be paid to the department, the department may, upon notice as is prescribed in the contract, terminate the contract and all obligations under the contract. The act of the department in ceasing on default to furnish or deliver water, use of water, water storage, or other service under the contract does not deprive the department of or limit a remedy provided by the contract or by law for the recovery of money due or that may become due under the contract.

(5) (a) The department may sell, transfer to water users' associations, abandon, lease or rent, or otherwise dispose of any rights-of-way, easements, properties, or interests or otherwise take and receive the income or profit and revenue from property without regard to other laws providing for the disposition of state property. Except for a water project for which no water management contracts are managed by the department and for which no money is collected by the department, prior to the department's sale, transfer, or other disposition, a determination must be made by the department as to the market value of the rights-of-way, easements, properties, or interests to be sold, transferred, abandoned, or otherwise disposed of. The department's determination of market value must consider all liens, encumbrances, and other limitations on the project properties or interests. In the disposal of a project, the department shall comply with the provisions of 85-6-109 and shall give purchase preference to existing water users' associations operating and maintaining the project proposed for disposal.

(b) Subject to the provisions of subsection (5)(a), the department shall attempt to dispose of the ~~Cataract Creek Dam project by June 30, 2013~~ *Willow Creek Dam project by June 30, 2015*.

(6) An employee or agent of the department authorized by the director may enter upon any land to carry out the purposes of this section, including but not limited to entry to make an inspection of the project that the department considers necessary, entry to salvage or remove project property, and entry to make physical alterations to project property. The department shall give reasonable notice to the landowner of its intention to enter upon the land. The department is responsible for actual damages done to property."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 276

[SB 237]

AN ACT REVISING REQUIREMENTS GOVERNING A LOCAL GOVERNMENT IMPACT FEE SERVICE AREA REPORT AND IMPACT FEE ADVISORY COMMITTEE; INCREASING THE TIME PERIOD FOR WHEN THE BUDGET COMPONENT OF AN IMPACT FEE SERVICE AREA REPORT MUST BE REVIEWED; ELIMINATING THE REQUIREMENT THAT AN ACCOUNTANT SERVE ON AN IMPACT FEE ADVISORY COMMITTEE; AND AMENDING SECTIONS 7-6-1602 AND 7-6-1604, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-6-1602, MCA, is amended to read:

"7-6-1602. Calculation of impact fees — documentation required — ordinance or resolution — requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve a service area report.

(2) The service area report is a written analysis that must:

(a) describe existing conditions of the facility;

(b) establish level-of-service standards;

(c) forecast future additional needs for service for a defined period of time;

(d) identify capital improvements necessary to meet future needs for service;

(e) identify those capital improvements needed for continued operation and maintenance of the facility;

(f) make a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) make a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

(h) establish the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establish the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establish the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) have a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every ~~2~~ *5* years.

(3) The service area report is a written analysis that must contain documentation of sources and methodology used for purposes of subsection (2) and must document how each impact fee meets the requirements of subsection (7).

(4) The service area report that supports adoption and calculation of an impact fee must be available to the public upon request.

(5) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(6) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (2).

(7) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating

the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility."

Section 2. Section 7-6-1604, MCA, is amended to read:

"7-6-1604. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community ~~and one certified public accountant~~. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity."

Approved April 23, 2015

CHAPTER NO. 277

[SB 240]

AN ACT CONTINUING MONTANA'S PARTICIPATION IN THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; REQUIRING A BIENNIAL REPORT ON THE STATE'S PARTICIPATION AND EFFORTS; AMENDING SECTION 20-1-231, MCA; REPEALING SECTION 4, CHAPTER 321, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-231, MCA, is amended to read:

"20-1-231. ~~(Temporary)~~ Report to legislature. ~~By July 1, 2014~~ *On or before September 15 of even-numbered years*, representatives of the Great Falls school district, the Helena school district, and a member of the military, as specified by the adjutant general, shall provide, singly or jointly, a report to the senate president, the speaker of the house, and the education and local government interim committee regarding the state's participation in the compact on educational opportunity for military children established in 20-1-230. ~~(Terminates June 30, 2015—sec. 4, Ch. 321, L. 2013.)~~"

Section 2. Repealer. Section 4, Chapter 321, Laws of 2013, is repealed.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 278

[SB 256]

AN ACT CLARIFYING THE ATTORNEY GENERAL'S AUTHORITY TO INTERVENE IN LITIGATION INVOLVING PROJECTS THAT LIE WITHIN A LANDSCAPE-SCALE INSECT AND DISEASE AREA DESIGNATED BY THE U.S. DEPARTMENT OF AGRICULTURE; AMENDING SECTION 76-13-154, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-13-154, MCA, is amended to read:

"76-13-154. Federal forest management projects — attorney general authority to intervene. (1) The attorney general has the authority to intervene in litigation or appeals on federal forest management projects.

(2) The authority provided in subsection (1) includes the authority to*:*

(a) fulfill the purposes of Title 76, chapter 13, to intervene in litigation or appeals on federal forest management projects that could affect watershed protection or restoration.*; and*

(b) intervene in litigation involving projects that lie within a landscape-scale insect and disease area designated by the U.S. department of agriculture pursuant to the Healthy Forests Restoration Act of 2003 and the Agricultural Act of 2014."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 279

[SB 270]

AN ACT EXEMPTING CERTAIN SEASONAL ESTABLISHMENTS FROM MINIMUM WAGE REQUIREMENTS; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores, such as babysitting, mowing lawns, and cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) persons with disabilities engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) an individual employed in a bona fide executive, administrative, or professional capacity, as these terms are defined by regulations of the commissioner, a computer systems analyst, computer programmer, software engineer, network administrator, or other similarly skilled computer employee who earns not less than $27.63 an hour pursuant to 29 CFR 541.400 or 541.402, or an individual employed in an outside sales capacity pursuant to 29 CFR 541.500;

(k) an individual employed by the United States of America;

(l) resident managers employed in lodging establishments or assisted living facilities who, under the terms of their employment, live in the establishment or facility;

(m) a direct seller as defined in 26 U.S.C. 3508;

(n) a person placed as a participant in a public assistance program authorized by Title 53 into a work setting for the purpose of developing employment skills. The placement may be with either a public or private employer. The exclusion does not apply to an employment relationship formed in the work setting outside the scope of the employment skills activities authorized by Title 53.

(o) a person serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(p) an employee employed in domestic service employment to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act, 29 U.S.C. 213, when the person providing the service is employed directly by a family member or an individual who is a legal guardian~~.~~*; or*

(q) an employee of a seasonal nonprofit establishment that is an organized camp or religious or educational conference center.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States secretary of transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 31502;

(b) an employee of an employer subject to 49 U.S.C. 10501 and 49 U.S.C. 60501, the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles or implements to ultimate purchasers;

(e) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) a salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;

(g) an employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that the plan has the general purpose and effect of reducing hours worked by the employees to or below the maximum workweek applicable to them under 39-3-405;

(h) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not owned or operated for profit, that are not operated on a sharecrop basis, and that are used exclusively for supply and storing of water for agricultural purposes;

(i) an employee employed in agriculture by a farmer, notwithstanding other employment of the employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

(i) primarily employed during a workweek in agriculture by a farmer; and

(ii) paid for employment in connection with the livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(j) an employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm if no more than five employees are employed by the establishment;

(k) a driver employed by an employer engaged in the business of operating taxicabs;

(l) an employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as the employee and the employee's spouse reside in the facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000;

(m) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;

(n) an employee of a sheriff's office who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1);

(o) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a

collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(p) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

(q) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;

(r) an officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police under 7-32-4118;

(s) an employee of a department of public safety working under a work period established pursuant to 7-32-115;

(t) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938, 29 U.S.C. 206, and if more than half of the employee's compensation for a period of not less than 1 month is derived from commissions on goods and services;

(u) a person employed as a guide, cook, camp tender, [outfitter's assistant,] or livestock handler by a licensed outfitter as defined in 37-47-101;

(v) an employee employed as a radio announcer, news editor, or chief engineer by an employer in a second- or third-class city or a town;

(w) an employee of the consolidated legislative branch as provided in 5-2-503;

(x) an employee of the state or its political subdivisions employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee was employed in a capacity other than the employee's regular occupation may be excluded from the calculation of hours to determine overtime compensation. (Bracketed language in subsection (2)(u) terminates August 31, 2015—sec. 11, Ch. 241, L. 2013.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 280

[SB 307]

AN ACT REVISING RECOGNITION OF FOREIGN BUSINESS ENTITIES TO INCLUDE ENTITIES FORMED UNDER LAWS OF A FEDERALLY RECOGNIZED INDIAN TRIBE; REVISING DEFINITIONS FOR CONSISTENCY; AMENDING SECTIONS 35-1-113, 35-1-311, 35-1-819, 35-1-1028, 35-1-1029, 35-1-1037, 35-1-1038, 35-2-114, 35-2-307, 35-2-613,

35-2-822, 35-2-823, 35-2-831, 35-2-832, 35-3-205, 35-4-109, 35-5-201, 35-8-102, 35-8-108, 35-8-1007, 35-8-1010, 35-8-1011, 35-10-641, 35-12-504, AND 35-12-1301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 35-1-113, MCA, is amended to read:

"35-1-113. Definitions. As used in this chapter, the following definitions apply:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized agent" means any individual granted permission by an entity to execute a document on behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized agent.

(3) "Authorized shares" means the shares of all classes that a domestic or foreign corporation is authorized to issue.

(4) "Conspicuous" means written so that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics, boldface, or contrasting color or typing in capitals or underlining is conspicuous.

(5) "Corporation" or "domestic corporation" means a corporation for profit that is not a foreign corporation and that is incorporated under or subject to the provisions of this chapter.

(6) "Deliver" includes mail.

(7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or an incurrence of indebtedness, by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or other form.

(8) "Effective date of notice" means the date determined as provided in 35-1-116.

(9) "Employee" includes an officer but not a director. A director may accept duties that make that director an employee.

(10) "Entity" includes:

(a) a corporation and a foreign corporation;

(b) a not-for-profit corporation;

(c) a profit and a not-for-profit unincorporated association;

(d) a business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and

(e) a state, the United States, or a foreign government.

(11) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state*, including the laws of a federally recognized Indian tribe*.

(12) "Governmental subdivision" includes an authority, county, district, and city or town.

(13) "Includes" denotes a partial definition.

(14) "Individual" includes the estate of an incompetent or deceased individual.

(15) "Means" denotes an exhaustive definition.

(16) "Notice" means notice as provided in 35-1-116.

(17) "Person" includes an individual and an entity.

(18) "Principal office" means the office, whether in-state or out-of-state, that is designated in the annual report as the office where the principal executive offices of a domestic or foreign corporation are located.

(19) "Proceeding" includes a civil suit and a criminal, administrative, and investigatory action.

(20) "Record date" means the date established under 35-1-535, 35-1-618 through 35-1-630, and 35-1-712 or under 35-1-516 through 35-1-533 and 35-1-541 through 35-1-548 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determination must be made as of the close of business on the record date unless another time for determination is specified when the record date is fixed.

(21) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under 35-1-441 for custody of the minutes of the meetings of the board of directors, for custody of the minutes of the shareholders' meetings, and for authenticating records of the corporation.

(22) "Share" means the unit into which the proprietary interests in a corporation are divided.

(23) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(24) "State", when referring to a part of the United States, includes a state, commonwealth, territory, or insular possession of the United States and the agencies and governmental subdivisions of the entities listed.

(25) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(26) "United States" includes a district, an authority, a bureau, a commission, a department, and any other agency of the United States.

(27) "Voting group" means shares of one or more classes or series that under the articles of incorporation of this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group."

Section 2. Section 35-1-311, MCA, is amended to read:

"35-1-311. Registered name of foreign corporation. (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by 35-1-1031, if the name is distinguishable in the records of the secretary of state from the corporate names that are not available under 35-1-308(2)(c).

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by 35-1-1031, by delivering to the secretary of state, for filing, an application:

(a) setting forth its corporate name, or its corporate name with any addition required by 35-1-1031, the state*, tribe,* or country, the date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) accompanied by a certificate of existence, or a similar document, from the state*, tribe,* or country of incorporation.

(3) The name is registered for the applicant's exclusive use on the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state, for filing, a renewal application that complies with the requirements of subsection (2). The renewal application must be delivered between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may continue to qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation later authorized to transact business in this state. The registration terminates when the foreign corporation is incorporated as a domestic corporation or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name."

Section 3. Section 35-1-819, MCA, is amended to read:

"35-1-819. Merger or share exchange with foreign corporation. (1) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

(a) in a merger, the merger is permitted by the law of the state*, tribe,* or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger; or

(b) in a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state*, tribe,* or country under whose law the acquiring corporation is incorporated;

(c) the foreign corporation complies with 35-1-816 and if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and

(d) each domestic corporation complies with the applicable provisions of 35-1-813 through 35-1-815 and 35-1-818 and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with the provisions of 35-1-816.

(2) When the merger or share exchange takes effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is considered:

(a) to have appointed the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and

(b) to have agreed that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under 35-1-826 through 35-1-839.

(3) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise."

Section 4. Section 35-1-1028, MCA, is amended to read:

"35-1-1028. Application for certificate of authority. (1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of 35-1-1031;

(b) the name of the state*, tribe,* or country under whose law it is incorporated;

(c) its date of incorporation and period of duration;

(d) the business mailing address of its principal office;

(e) the information required by 35-7-105(1);

(f) the names and usual business addresses of its current directors and officers; and

(g) the purpose or purposes of the corporation that it proposes to pursue in the transaction of business in this state.

(2) The foreign corporation shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the state*, tribe,* or country under whose law the foreign corporation is incorporated."

Section 5. Section 35-1-1029, MCA, is amended to read:

"35-1-1029. Amended certificate of authority. (1) A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if the corporation changes:

(a) its corporate name;

(b) the period of its duration;

(c) any of the information required by 35-7-105(1);

(d) the state*, tribe,* or country of its incorporation; or

(e) other corporate information that is recorded in its state*, tribe,* or country of incorporation but not listed in subsections (1)(a) through (1)(d).

(2) The requirements of 35-1-1028 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section."

Section 6. Section 35-1-1037, MCA, is amended to read:

"35-1-1037. Withdrawal of foreign corporation. (1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign corporation and the name of the state*, tribe,* or country under whose law it is incorporated;

(b) that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) a mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under subsection (3);

(e) a commitment to notify the secretary of state in the future of any change in its mailing address;

(f) that all taxes imposed on the corporation by Title 15 have been paid, supported by a certificate by the department of revenue to be attached to the application to the effect that the department is satisfied from the available evidence that all taxes imposed have been paid. The issuance of the certificate does not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana; and

(g) additional information as may be necessary or appropriate to enable the secretary of state to determine and assess any unpaid fees or taxes payable by the foreign corporation as prescribed by 35-1-1026 through 35-1-1031, 35-1-1038 through 35-1-1040, and this section.

(3) After the withdrawal of the corporation is effective, service of process on the secretary of state under this section is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (2)."

Section 7. Section 35-1-1038, MCA, is amended to read:

"35-1-1038. Grounds for revocation. The secretary of state may commence a proceeding under 35-1-1039 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) the foreign corporation does not deliver its annual report to the secretary of state within 90 days after it is due;

(2) the foreign corporation does not pay within 90 days after they are due any franchise taxes or penalties imposed by this chapter or other law;

(3) the foreign corporation is without a registered agent in this state for 90 days or more;

(4) the foreign corporation does not inform the secretary of state by an appropriate filing that its registered agent has changed or resigned within 60 days of the change or resignation;

(5) an incorporator, director, officer, or agent of the foreign corporation signed a document the person knew was false in any material respect with the intent that the document be delivered to the secretary of state for filing; or

(6) the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state*, tribe,* or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger."

Section 8. Section 35-2-114, MCA, is amended to read:

"35-2-114. Definitions. As used in this chapter, the following definitions apply:

(1) "Approved by the members" means approved and ratified by the affirmative vote:

(a) of a majority of the votes represented and voting:

(i) at a meeting at which a quorum is present and the affirmative votes constitute a majority of the required quorum;

(ii) by a written ballot or written consent in conformity with this chapter; or

(iii) by the affirmative vote, written ballot, or written consent of the majority; and

(b) that includes the votes of all the members of any class, unit, or grouping that may be required by the articles, bylaws, or this chapter for any specified member action.

(2) "Articles of incorporation" or "articles" include amended and restated articles of incorporation and articles of merger.

(3) "Authenticated electronic identification" includes any e-mail address or other electronic identification designated by a user, including a corporation, for electronic communications.

(4) "Board" or "board of directors" means the board of directors except that a person or group of persons is not the board of directors because of powers delegated to that person or group pursuant to 35-2-414.

(5) "Bylaws" means the code, codes, or rules, other than the articles, adopted pursuant to this chapter for the regulation or management of the affairs of the corporation, regardless of the name or names by which the code, codes, or rules are designated.

(6) "Class" refers to a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights must be considered the same if they are determined by a formula applied uniformly.

(7) "Corporation" means a public benefit corporation, mutual benefit corporation, or religious corporation.

(8) "Delegates" means those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters.

(9) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission, except that delivery to the secretary of state means actual receipt in a manner authorized by the secretary of state.

(10) "Directors" means individuals:

(a) designated in the articles or bylaws or elected by the incorporators and their successors; and

(b) elected or appointed by any other name or title to act as members of the board.

(11) "Distribution" means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers.

(12) "Domestic corporation" means a corporation.

(13) "Effective date of notice" has the meaning provided in 35-2-115(5).

(14) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(15) "Employee" does not include an officer or director who is not otherwise employed by the corporation.

(16) "Entity" includes:

(a) a corporation and foreign corporation;

(b) a business corporation and foreign business corporation;

(c) a profit and nonprofit unincorporated association;

(d) a corporation sole;

(e) a business trust, an estate, a partnership, a trust, and two or more persons having a joint or common economic interest; and

(f) a state, the United States, and a foreign government.

(17) "External communications" includes any communication with the secretary of state, the attorney general, a state, or the United States.

(18) "File", "filed", or "filing" means filed in the office of the secretary of state.

(19) "Foreign corporation" means a corporation that is organized under a law other than the law of this state*, including the laws of a federally recognized Indian tribe,* and that would be a nonprofit corporation if formed under the laws of this state.

(20) "Governmental subdivision" includes an authority, county, district, and municipality.

(21) "Includes" denotes a partial definition.

(22) "Individual" includes the estate of an incompetent individual.

(23) "Internal communications" includes any notice, vote, written consent, written ballot, demand, record, member list, corporate record, or any other communication between members, directors, delegates, proxies, third persons under 35-2-232, or the corporate secretary.

(24) "Means" denotes a complete definition.

(25) (a) "Member" means, without regard to what a person is called in the articles or bylaws, a person or persons who, on more than one occasion and pursuant to a provision of a corporation's articles or bylaws, have the right to vote for the election of a director or directors.

(b) A person is not a member by virtue of any of the following:

(i) any rights the person has as a delegate;

(ii) any rights the person has to designate a director or directors; or

(iii) any rights the person has as a director.

(26) "Membership" refers to the rights and obligations a member or members have pursuant to a corporation's articles, bylaws, and this chapter.

(27) "Mutual benefit corporation" means a domestic corporation designated as a mutual benefit corporation.

(28) "Notice" means that term as described in 35-2-115.

(29) "Person" includes any individual or entity.

(30) "Principal office" means the office, in the state or out of the state, that is designated in the annual report filed pursuant to 35-2-904 as the place where the principal office of a domestic or foreign corporation is located.

(31) "Present" or "presence" includes any form of electronic, virtual, or digital presence authorized by a corporation's articles or bylaws.

(32) "Proceeding" includes a civil suit and a criminal, administrative, and investigatory action.

(33) "Public benefit corporation" means a domestic corporation designated as a public benefit corporation.

(34) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(35) "Record date" means the date established under part 5 on which a corporation determines the identity of its members for the purposes of this chapter.

(36) "Religious corporation" means a domestic corporation designated as a religious corporation.

(37) "Remote communication" includes communication made by conference telephone call, internet, electronic, remote technology, or similar communication through which all participants in the meeting have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make comments.

(38) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under 35-2-439(2) for custody of the minutes of the

directors' and members' meetings and for authenticating the records of the corporation.

(39) "Sign" or "signed" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

(40) "State", when referring to a part of the United States, includes:

(a) a state and commonwealth and their agencies and governmental subdivisions; and

(b) a territory and insular possession, their agencies, and governmental subdivisions of the United States.

(41) "United States" includes a district, an authority, a bureau, a commission, a department, and any other agency of the United States.

(42) "Vote" or "voting" includes but is not limited to the giving of consent in the form of a record provided electronically or by written ballot and written consent.

(43) (a) "Voting power" means the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made.

(b) The term excludes a vote that is contingent upon the happening of a condition or event that has not occurred at the time.

(c) When a class is entitled to vote as a class for directors, the determination of voting power of the class must be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

(44) "Written" or "in writing" means:

(a) with respect to internal communications, any record in tangible or electronic form or any form allowed under Title 30, chapter 18, part 1; and

(b) with respect to external communications, tangible records or any form authorized by the external party."

Section 9. Section 35-2-307, MCA, is amended to read:

"35-2-307. Registered name of foreign corporation. (1) A foreign corporation may register its corporate name, or its corporate name with any change required by 35-2-826, if the name is distinguishable in the records of the secretary of state from:

(a) the corporate name of a nonprofit or business corporation incorporated or authorized to do business in this state; and

(b) a corporate name reserved under Title 35, chapter 1, or 35-2-306 or registered under this section.

(2) A foreign corporation shall register its corporate name, or its corporate name with any change required by 35-2-826, by delivering to the secretary of state, for filing, an application:

(a) setting forth its corporate name or its corporate name with any change required by 35-2-826, the state*, tribe,* or country, the date of its incorporation, and a brief description of the nature of the activities in which it is engaged; and

(b) accompanied by a certificate of existence, or a similar document, from the state*, tribe,* or country of incorporation.

(3) The name is registered for the applicant's exclusive use on the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state, for filing, a renewal application that complies with the requirements of subsection (2). The renewal application must be delivered between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may continue to qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation later incorporated under this chapter or by another foreign corporation later authorized to transact business in this state. The registration terminates when the foreign corporation is incorporated as a domestic corporation or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name."

Section 10. Section 35-2-613, MCA, is amended to read:

"35-2-613. Merger with foreign corporation. (1) Except as provided in 35-2-609, one or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

(a) the merger is permitted by the law of the state*, tribe,* or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger; or

(b) the foreign corporation complies with 35-2-611 if it is the surviving corporation of the merger; and

(c) each domestic nonprofit corporation complies with the applicable provisions of 35-2-608 through 35-2-610 and, if it is the surviving corporation of the merger, with the provisions of 35-2-611.

(2) When the merger takes effect, the surviving foreign business or nonprofit corporation may be served with process in any proceeding brought against it as provided in 35-7-113."

Section 11. Section 35-2-822, MCA, is amended to read:

"35-2-822. Application for certificate of authority. (1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state. The application must set forth:

(a) the name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of 35-2-826;

(b) the name of the state*, tribe,* or country under whose law it is incorporated;

(c) the date of incorporation and period of duration;

(d) the business mailing address of its principal office;

(e) the information required by 35-7-105(1);

(f) the names and business mailing addresses of its current directors and officers;

(g) whether the foreign corporation has members;

(h) whether the corporation, if it had been incorporated in this state, would be a public benefit corporation, mutual benefit corporation, or religious corporation; and

(i) the purpose or purposes of the corporation that it proposes to pursue in the transaction of business in this state.

(2) The foreign corporation shall deliver with the completed application a certificate of existence or a similar document authenticated by the secretary of state or other official having custody of corporate records in the state*, tribe,* or country under whose law the foreign corporation is incorporated."

Section 12. Section 35-2-823, MCA, is amended to read:

"35-2-823. Amended certificate of authority. (1) A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:

(a) its corporate name;

(b) the period of its duration;

(c) any of the information required by 35-7-105(1);

(d) the state*, tribe,* or country of its incorporation; or

(e) its designation as a public benefit corporation, mutual benefit corporation, or religious corporation.

(2) The requirements of 35-2-822 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section."

Section 13. Section 35-2-831, MCA, is amended to read:

"35-2-831. Withdrawal of foreign corporation. (1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign corporation and the name of the state*, tribe,* or country under whose law it is incorporated;

(b) the fact that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) the fact that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state;

(d) a mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under subsection (2)(c); and

(e) a commitment to notify the secretary of state, in the future, of any change in the mailing address."

Section 14. Section 35-2-832, MCA, is amended to read:

"35-2-832. Grounds for revocation. (1) The secretary of state may commence a proceeding under 35-2-833 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(a) the foreign corporation does not deliver the annual report to the secretary of state within 90 days after it is due;

(b) the foreign corporation does not pay within 90 days after they are due any franchise taxes or penalties imposed by this chapter or other law;

(c) the foreign corporation is without a registered agent in this state for 90 days or more;

(d) the foreign corporation does not inform the secretary of state by an appropriate filing that its registered agent has changed or resigned within 90 days of the change or resignation;

(e) an incorporator, director, officer, or agent of the foreign corporation signed a document that the person knew was false in any material respect, with the intent that the document be delivered to the secretary of state for filing; or

(f) the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state*, tribe,* or country under whose law the foreign corporation is incorporated and the certificate states that the foreign corporation has been dissolved or disappeared as the result of a merger.

(2) The attorney general may commence a proceeding under 35-2-833 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(a) the corporation has continued to exceed or abuse the authority conferred upon it by law;

(b) the corporation is designated as a foreign public benefit corporation and its corporation assets in this state are being misapplied or wasted; or

(c) the corporation is designated as a foreign public benefit corporation and it is no longer able to carry out its purpose."

Section 15. Section 35-3-205, MCA, is amended to read:

"35-3-205. Powers of corporation sole. Every corporation sole organized under the provisions of this chapter, for the purpose of the trust described in this section, has power:

(1) to continue to exist perpetually by its corporate name unless a limited period of duration is stated in its articles of incorporation;

(2) to sue and be sued, complain, and defend in its corporate name;

(3) to have a corporate seal that may be altered at pleasure and to use the seal by causing it or a facsimile to be impressed or affixed or in any other manner reproduced;

(4) to purchase, take, receive, lease, take by gift, devise, or bequest or otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, provided that all property must be in trust for the use, purpose, and benefit of the religious denomination, society, or church for which and in whose behalf the corporation sole is organized;

(5) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(6) to lend money to its employees other than its officers and otherwise assist its employees and officers;

(7) to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and otherwise use and deal in and with shares or other interests in or obligations of other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals or direct or indirect obligations of the United States or of any other government, state, territory, *tribe,* governmental district, or municipality or of any instrumentality of a governmental entity;

(8) to make contracts and incur liabilities, borrow money at rates of interest that the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(9) to lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

(10) to conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country;

(11) to elect or appoint officers and agents of the corporation, including attorneys-in-fact, and to define their duties and fix their compensation;

(12) to make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation;

(13) unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, scientific, or educational purposes;

(14) to indemnify any officer or agent or any person who may have served at its request as an officer or agent or as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor against claims, liabilities, expenses, and costs necessarily incurred by the person in connection with the defense, compromise, or settlement of any action, suit, or proceeding, civil or criminal, in which the person is made a party by reason of being or having been a director or officer, except in relation to matters as to which the person is adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation, and to make any other indemnification that is authorized by the articles of incorporation or by any bylaw or resolution promulgated by the incorporator or the incorporator's successor;

(15) to pay pensions and retirement benefits and establish pension plans, pension trusts, insurance plans, and incentive plans for all or any of its officers and employees;

(16) to cease its corporate activities and surrender its corporate franchise;

(17) to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized."

Section 16. Section 35-4-109, MCA, is amended to read:

"35-4-109. Definitions. As used in this chapter, unless the context otherwise requires, the following definitions apply:

(1) "Disqualified person" means any natural person, corporation, partnership, fiduciary, trust, association, government agency, or other entity that for any reason is or becomes ineligible under this chapter to own shares issued by a professional corporation.

(2) "Foreign professional corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the laws of this state*, including the laws of a federally recognized Indian tribe*.

(3) "Licensing authority" means an officer, board, agency, court, or other authority in this state that has the power to issue a license or other legal authorization to render a professional service.

(4) "Professional corporation" or "domestic professional corporation" means a corporation for profit subject to the provisions of this chapter, except a foreign professional corporation.

(5) "Professional service" means any service that may lawfully be rendered only by persons licensed under a licensing law of this state and that may not lawfully be rendered by a corporation organized under the Montana Business Corporation Act.

(6) "Qualified person" means a natural person, general partnership, or professional corporation eligible under this chapter to own shares issued by a professional corporation."

Section 17. Section 35-5-201, MCA, is amended to read:

"35-5-201. Creating instrument — filing — consent of foreign business trust to laws and service of process. (1) Any business trust ~~desiring~~ *seeking* to transact business in this state shall file with the secretary of state:

(a) an executed copy of its articles, declarations of trust, or trust agreement by which the trust was created and all amendments ~~thereto~~ or a true copy ~~thereof~~ certified ~~to be such~~ by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory, *tribe,* or country in whose office an executed copy ~~thereof~~ is on file. The true copy ~~shall~~ *must* be verified within 60 days before it is filed with the secretary of state.

(b) a verified list of the names, residences, and post-office addresses of its trustees;

(c) an affidavit setting forth its assumed business name, if any.

(2) A foreign business trust shall file a verified application in the office of the secretary of state as provided in the case of foreign corporations under 35-1-1028 and shall file a copy of its articles, declaration of trust, or trust agreement by which it was created, certified by the secretary of state, in the office of the county clerk of the county where its principal office or place of business in this state will be located. The foreign business trust shall also file, at the same time and in the same office, a certificate certifying that it has consented to all the license laws and other laws of the state of Montana relative to foreign corporations and has consented to be sued in the courts of this state, upon all causes of action arising against it in this state and that service of process may be made upon some person, a citizen of this state whose principal place of business is designated in ~~such~~ *the* certificate. Service of process, when made upon ~~such~~ *the* agent, is valid service on the business trust."

Section 18. Section 35-8-102, MCA, is amended to read:

"35-8-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Articles of organization" means articles filed pursuant to 35-8-201 and those articles as amended or restated. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed under the laws of the state*, tribe,* or country where it is organized.

(2) "At-will company" means a limited liability company other than a term company.

(3) "Authorized agent" means any individual granted permission by an entity to execute a document on behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized agent.

(4) "Business" includes every trade, occupation, profession, or other lawful purpose, whether or not carried on for profit.

(5) "Corporation" means a corporation formed under the laws of this state or a foreign corporation.

(6) "Court" includes every court having jurisdiction in the case.

(7) "Debtor in bankruptcy" means a person who is the subject of an order for relief under Title 11 of the United States Code or a comparable order under federal, state, or foreign law governing insolvency.

(8) "Disqualified person" means any person or entity that for any reason is or becomes ineligible under this chapter to become a member in a professional limited liability company.

(9) "Distribution" means a transfer of money, property, or other benefit to a member in that member's capacity as a member of a limited liability company or to a transferee of a member's distributional interest.

(10) "Distributional interest" means all of a member's interest in the distributions of a limited liability company.

(11) "Event of dissociation" means an event that causes a person to cease to be a member.

(12) "Foreign corporation" means a corporation that is organized under ~~the laws of a state other than Montana or under the laws of any foreign country~~ *a law other than the law of this state, including the laws of a federally recognized Indian tribe*.

(13) "Foreign limited liability company" means an entity that is:

(a) an unincorporated entity;

(b) organized under ~~laws of a state other than Montana or under the laws of any foreign country~~ *a law other than the law of this state, including the laws of a federally recognized Indian tribe*;

(c) organized under a statute pursuant to which an entity may be formed that affords to each of its members limited liability with respect to the liabilities of the entity; and

(d) not required to be registered or organized under any statute of this state other than this chapter.

(14) "Foreign limited partnership" means a limited partnership formed under ~~the laws of any state other than Montana or under the laws of any foreign country~~ *a law other than the law of this state, including the laws of a federally recognized Indian tribe*.

(15) "Foreign professional limited liability company" means a limited liability company organized for the purpose of rendering professional services under ~~the laws of any state other than Montana~~ *a law other than the law of this state, including the laws of a federally recognized Indian tribe*.

(16) "Licensing authority" means an officer, board, agency, court, or other authority in this state that has the power to issue a license or other legal authorization to render a professional service.

(17) "Limited liability company" or "domestic limited liability company" means an organization that is formed under this chapter.

(18) "Limited partnership" means a limited partnership formed under the laws of this state or a foreign limited partnership.

(19) "Manager" means a person who, whether or not a member of a manager-managed company, is vested with authority under 35-8-301.

(20) "Manager-managed company" means a limited liability company that is so designated in its articles of organization.

(21) "Member" means a person who has been admitted to membership in a limited liability company, as provided in 35-8-703, and who has not dissociated from the limited liability company.

(22) "Member-managed company" means a limited liability company other than a manager-managed company.

(23) "Operating agreement" means an agreement, including amendments, as to the conduct of the business and affairs of a limited liability company and the relations among the members, managers, and the company that is binding upon all of the members.

(24) "Person" means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

(25) "Professional limited liability company" means a limited liability company designating itself as a professional limited liability company in its articles of organization.

(26) "Professional service" means a service that may lawfully be rendered only by persons licensed under a licensing law of this state and that may not be lawfully rendered by a limited liability company that is not a professional limited liability company.

(27) "Qualified person" means a natural person, limited liability company, general partnership, or professional corporation eligible under this chapter to own shares issued by a professional limited liability company.

(28) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is recoverable in a perceivable form.

(29) "Series of members" means a group or collection of members of a limited liability company who share interests and have separate rights, powers, or duties with respect to property, obligations, or profits and losses associated with property or obligations and who are specified in the articles of organization or operating agreement of the limited liability company or are specified by one or more members or managers of the limited liability company or other persons as provided in the articles of organization or operating agreement.

(30) "Sign" means to identify a record by means of a signature, mark, or other symbol with the intent to authenticate it.

(31) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(32) "Surviving limited liability company" means the constituent entity surviving the merger, as identified in the articles of merger provided for in 35-8-1201.

(33) "Term company" means a limited liability company designated as a term company in its articles of organization."

Section 19. Section 35-8-108, MCA, is amended to read:

"35-8-108. Registered name of foreign limited liability company — registration renewal. (1) A foreign limited liability company may register its name or its name with any addition required by 35-8-103 if the name is distinguishable from names that are not available under 35-8-103(2).

(2) A foreign limited liability company shall register its name or its name with any addition required by 35-8-103 by delivering to the secretary of state for filing an application:

(a) setting forth:

(i) its name or its name with any addition required by 35-8-103;

(ii) the state*, tribe,* or country where it was organized;

(iii) the date of its organization;

(iv) a brief description of the nature of its business; and

(v) if applicable, a statement that it has one or more series of members and whether the debts or liabilities of a series of members are enforceable against the assets of that series of members only and not against the assets of the company generally or another series of members;

(b) accompanied by a certificate of existence or a similar document from the state*, tribe,* or country where it was organized.

(3) The name, if accepted by the secretary of state, is registered for the applicant's exclusive use as of the date the application is filed with the secretary of state.

(4) A foreign limited liability company may annually renew its registration for successive years by delivering to the secretary of state a renewal application that complies with the requirements of subsection (2). The renewal application must be received by the secretary of state for filing between October 1 and December 31 of the year preceding the year for which a renewal is sought. The renewal is effective until December 31 of the following year.

(5) A foreign limited liability company has the right to use its registered name until the registration of the name is canceled as a result of it consenting to the use of the registered name by another business entity authorized to do business in this state or until the foreign limited liability company applies for and receives a certificate of authority to transact business in this state or it organizes as a domestic limited liability company in this state. A foreign limited liability company receiving a certificate of authority to transact business in this state or that organizes as a domestic limited liability company may use the canceled registered name as its business name."

Section 20. Section 35-8-1007, MCA, is amended to read:

"35-8-1007. Amended certificate of authority. (1) A foreign limited liability company authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes:

(a) its name;

(b) the period of its duration; or

(c) the state*, tribe,* or country of its organization.

(2) The requirements of 35-8-1003 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section."

Section 21. Section 35-8-1010, MCA, is amended to read:

"35-8-1010. Withdrawal of foreign limited liability company. (1) A foreign limited liability company authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

(2) A foreign limited liability company authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:

(a) the name of the foreign limited liability company and the name of the state*, tribe,* or country under whose law it is organized;

(b) that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) a mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under subsection (3);

(e) a commitment to notify the secretary of state in the future of any change in its mailing address;

(f) that all taxes imposed on the foreign limited liability company by Title 15 have been paid, supported by a certificate by the department of revenue to be attached to the application to the effect that the department is satisfied from the available evidence that all taxes imposed have been paid. The issuance of the certificate does not relieve the corporation from liability for any taxes, penalties, or interest due the state of Montana.

(g) additional information as may be necessary or appropriate to enable the secretary of state to determine and assess any unpaid fees or taxes payable by the foreign limited liability company.

(3) After the withdrawal of the foreign limited liability company is effective, service of process on the secretary of state under this section is service on the foreign limited liability company. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign limited liability company at the mailing address set forth under subsection (2)."

Section 22. Section 35-8-1011, MCA, is amended to read:

"35-8-1011. Grounds for revocation. The secretary of state may commence a proceeding under 35-8-1012 to revoke the certificate of authority of a foreign limited liability company authorized to transact business in this state if:

(1) the foreign limited liability company does not deliver its annual report to the secretary of state within 140 days after it is due;

(2) the foreign limited liability company is without a registered agent or registered office in this state for 60 days or more;

(3) the foreign limited liability company does not inform the secretary of state that its registered agent has changed or resigned within 60 days of the change or resignation; or

(4) the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of company records in the state*, tribe,* or country under whose law the foreign limited liability company is organized, stating that it has been dissolved or disappeared as the result of a merger."

Section 23. Section 35-10-641, MCA, is amended to read:

"35-10-641. Merger of partnerships. (1) Pursuant to a plan of merger approved as provided in subsection (3), a partnership may be merged with one or more partnerships or limited partnerships.

(2) The plan of merger must set forth:

(a) the name of each partnership or limited partnership that is a party to the merger;

(b) the name of the surviving entity into which the other partnerships or limited partnerships will merge;

(c) whether the surviving entity is a partnership or a limited partnership and the status of each partner;

(d) the terms and conditions of the merger;

(e) the manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity or into money or other property in whole or part; and

(f) the street address of the surviving entity's chief executive office.

(3) The plan of merger must be approved:

(a) in the case of a partnership that is a party to the merger, by all the partners or a number or percentage specified for merger in the partnership agreement; and

(b) in the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the state*, tribe,* or foreign jurisdiction in which the limited partnership is organized and, in the absence of such specifically applicable law, by all the partners, notwithstanding a provision to the contrary in the partnership agreement.

(4) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(5) The merger takes effect on the latest of:

(a) the approval of the plan of merger by all parties to the merger, as provided in subsection (3);

(b) the filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or

(c) any effective date specified in the plan of merger."

Section 24. Section 35-12-504, MCA, is amended to read:

"35-12-504. Definitions. In this chapter, the following definitions apply:

(1) "Certificate of limited partnership" means the certificate required by 35-12-601. The term includes the certificate as amended or restated.

(2) "Contribution", except in the phrase "right of contribution", means any benefit provided by a person to a limited partnership in order to become a partner in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) a comparable order under federal, state, or foreign law governing insolvency.

(4) "Designated office" means:

(a) with respect to a limited partnership, the office that the limited partnership is required to designate and maintain under Title 35, chapter 7, part 1; and

(b) with respect to a foreign limited partnership, its principal office.

(5) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to 35-12-803(3).

(7) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state*, including the laws of a federally recognized Indian tribe,* and required by those laws to have one or more general

partners and one or more limited partners. The term includes a foreign limited liability partnership.

(8) "General partner" means:

(a) with respect to a limited partnership, a person that:

(i) becomes a general partner under 35-12-801; or

(ii) was a limited partner in a limited partnership when the limited partnership became subject to this chapter under section 96(1) or (2), Chapter 216, Laws of 2011; and

(b) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(9) "Limited liability limited partnership", except in the phrase "foreign limited liability limited partnership", means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(10) "Limited partner" means:

(a) with respect to a limited partnership, a person that:

(i) becomes a limited partner under 35-12-701; or

(ii) was a limited partner in a limited partnership when the limited partnership became subject to this chapter under section 96(1) or (2), Chapter 216, Laws of 2011; and

(b) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(11) "Limited partnership", except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership", means an entity having one or more general partners and one or more limited partners that is formed under this chapter by two or more persons or becomes subject to this chapter under Title 35, chapter 12, part 15, or section 96(1) or (2), Chapter 216, Laws of 2011. The term includes the agreement as amended.

(12) "Partner" means a limited partner or general partner.

(13) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

(14) "Person" means an individual, corporation, business trust, estate trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

(15) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(16) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Required information" means the information that a limited partnership is required to maintain under 35-12-508.

(19) "Sign" means:

(a) to execute or adopt a tangible symbol with the present intent to authenticate a record; or

(b) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.

(20) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or insular possession subject to the jurisdiction of the United States.

(21) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

(22) "Transferable interest" means a partner's right to receive distributions.

(23) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner."

Section 25. Section 35-12-1301, MCA, is amended to read:

"35-12-1301. Governing law. (1) The laws of the state or other jurisdiction under which a foreign limited partnership is organized*, including the laws of a federally recognized Indian tribe,* govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

(2) A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which a foreign limited partnership is organized and the laws of this state.

(3) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this state."

Section 26. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 27. Coordination instruction. If both Senate Bill No. 35 and [this act] are passed and approved and both contain a section that amends 35-1-311, then the sections amending 35-1-311 are void and 35-1-311 must be amended as follows:

"35-1-311. Registered name of foreign corporation. (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by 35-1-1031, if the name is distinguishable in the records of the secretary of state from the corporate names that are not available under 35-1-308(2)(c).

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by 35-1-1031, by delivering to the secretary of state, for filing, an application *setting forth*:

(a) ~~setting forth~~ its corporate name, or its corporate name with any addition required by 35-1-1031, the *name of the* state*, tribe,* or country *under whose laws the foreign corporation is organized*, the date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) ~~accompanied by a certificate of existence, or a similar document, from the state or country of incorporation~~ *a statement that the foreign corporation has complied with the organizational laws in the jurisdiction in which it is organized and that the foreign corporation exists in that jurisdiction*.

(3) The name is registered for the applicant's exclusive use on the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state, for filing, a renewal application that complies with the requirements of subsection (2). The renewal application must be delivered between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may continue to qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation later authorized to transact business in this state. The registration terminates when the foreign corporation is incorporated as a domestic corporation or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name."

Section 28. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 281

[SB 330]

AN ACT REQUIRING A REVIEW OF STATE WATER RESERVATIONS BY JULY 1, 2016; REQUIRING A REPORT TO THE WATER POLICY INTERIM COMMITTEE; CLARIFYING ACTIONS RELATED TO STATE WATER RESERVATIONS; AMENDING SECTION 85-2-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-316, MCA, is amended to read:

"85-2-316. State reservation of waters. (1) The state, any political subdivision or agency of the state, or the United States or any agency of the United States may apply to the department to acquire a state water reservation for existing or future beneficial uses or to maintain a minimum flow, level, or quality of water throughout the year or at periods or for a length of time that the department designates.

(2) (a) Water may be reserved for existing or future beneficial uses in the basin where it is reserved, as described by the following basins:

(i) the Clark Fork River and its tributaries to its confluence with Lake Pend Oreille in Idaho;

(ii) the Kootenai River and its tributaries to its confluence with Kootenay Lake in British Columbia;

(iii) the St. Mary River and its tributaries to its confluence with the Oldman River in Alberta;

(iv) the Little Missouri River and its tributaries to its confluence with Lake Sakakawea in North Dakota;

(v) the Missouri River and its tributaries to its confluence with the Yellowstone River in North Dakota; and

(vi) the Yellowstone River and its tributaries to its confluence with the Missouri River in North Dakota.

(b) A state water reservation may be made for an existing or future beneficial use outside the basin where the diversion occurs only if stored water is not reasonably available for water leasing under 85-2-141 and the proposed use would occur in a basin designated in subsection (2)(a).

(3) (a) The department shall adopt rules that are necessary to determine whether or not an application is correct and complete based on the provisions applicable to issuance of a state water reservation. The rules must be adopted in compliance with Title 2, chapter 4.

(b) An applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under this subsection (3) that are in effect at the time the application is submitted. The department shall proceed in accordance with 85-2-302 with regard to any defects in the application.

(c) The application must be made on a form prescribed by the department. The department shall make the forms available through its offices.

(d) Upon receiving a correct and complete application, the department shall proceed in accordance with 85-2-307 through 85-2-309. After the hearing provided for in 85-2-309, the department shall decide whether to reserve the water for the applicant. The department's costs of giving notice, holding the hearing, conducting investigations, and making records incurred in acting upon the application to reserve water, except the cost of salaries of the department's personnel, must be paid by the applicant. In addition, a reasonable proportion of the department's cost of preparing an environmental analysis must be paid by the applicant unless waived by the department upon a showing of good cause by the applicant.

(4) (a) Except as provided in 85-20-1401, the department shall issue a state water reservation if the applicant establishes to the department by a preponderance of evidence:

(i) the purpose of the reservation;

(ii) the need for the reservation;

(iii) the amount of water necessary for the purpose of the reservation;

(iv) that the reservation is in the public interest.

(b) In determining the public interest under subsection (4)(a)(iv), the department shall issue a water reservation for withdrawal and transport for use outside the state if the applicant proves by clear and convincing evidence that:

(i) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(ii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(c) In determining whether the applicant has proved by clear and convincing evidence that the requirements of subsections (4)(b)(i) and (4)(b)(ii) are met, the department shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the application could feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(d) When applying for a state water reservation to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation, lease, use, and reservation of water.

(5) If the purpose of the state water reservation requires construction of a storage or diversion facility, the applicant shall establish to the department by a preponderance of evidence that there will be progress toward completion of the facility and accomplishment of the purpose with reasonable diligence in accordance with an established plan.

(6) *(a) Upon issuing a state water reservation for the purpose of maintaining a minimum flow, level, or quality of water, the appropriation of water is complete.*

(b) The department shall limit any state water reservations after May 9, 1979, for maintenance of minimum flow, level, or quality of water that it awards at any point on a stream or river to a maximum of 50% of the average annual flow of record on gauged streams. Ungauged streams are not subject to the limit under this subsection *(6)(b)*.

(7) A state water reservation issued under this section has a priority of appropriation dating from the filing of a correct and complete application with the department.

(8) (a) A person desiring to use water reserved to a conservation district for agricultural purposes shall make application for the use with the district, and the district, upon approval of the application, shall inform the department of the approved use and issue the applicant an authorization for the use. The department shall maintain records of all uses of water reserved to conservation districts and be responsible, when requested by the districts, for rendering technical and administrative assistance within the department's staffing and budgeting limitations in the preparation and processing of the applications for the conservation districts. The department shall, within its staffing and budgeting limitations, complete any feasibility study requested by the districts within 12 months of the time that the request was made. The department shall extend the time allowed to develop a plan identifying projects for using a district's reservation as long as the conservation district makes a good faith effort, within its staffing and budget limitations, to develop a plan.

(b) Upon actual application of water to the proposed beneficial use, the authorized user shall notify the conservation district. The notification must contain a certified statement by a person with experience in the design, construction, or operation of project works for agricultural purposes describing how the reserved water was put to use. The department or the district may then inspect the appropriation to determine if it has been completed in substantial accordance with the authorization.

(9) A state water reservation issued under this section may not adversely affect any rights in existence at that time. The department may issue a state water reservation subject to terms, conditions, restrictions, and limitations it considers necessary to satisfy the criteria of this section.

(10) *(a)* ~~Upon issuing a state water reservation for the purpose of maintaining a minimum flow, level, or quality of water, the appropriation of water is complete.~~ Except ~~as~~ *for a reservation provided in subsection (6) or a reservation* provided in 85-20-1401, the department shall, ~~periodically but~~ at least once every 10 years, review existing state water reservations to ensure that the objectives of the reservations are being met.

(b) An existing state water reservation subject to the review in subsection (10)(a) that was not reviewed in the 10 years prior to [the effective date of this act] must be reviewed by July 1, 2016. The department shall provide the water policy interim committee, established in 5-5-231, a summary of the reviews before September 15, 2016.

(c) ~~When~~ *Following a review pursuant to this subsection (10), at the request of the entity holding a water reservation or when* the objectives of a state water reservation are not being met, the department may*:* ~~extend, revoke, or modify the reservation.~~

(i) extend the time period to complete the appropriation of water;

(ii) modify the reservation; or

(iii) revoke the reservation.

(d) Any undeveloped water made available as a result of a revocation or modification under this subsection *(10)* is available for appropriation by others pursuant to this part.

(11) Except as provided in 85-20-1401, the department may modify an existing or future order originally adopted to reserve water for the purpose of maintaining minimum flow, level, or quality of water, so as to reallocate the state water reservation or portion of the reservation to an applicant who is a qualified reservant under this section. Reallocation of water reserved pursuant to a state water reservation may be made by the department following notice and hearing if the department finds that all or part of the reservation is not required for its purpose and that the need for the reallocation has been shown by the applicant to outweigh the need shown by the original reservant. Reallocation of reserved water may not adversely affect the priority date of the reservation, and the reservation retains its priority date despite reallocation to a different entity for a different use. The department may not reallocate water reserved under this section on any stream or river more frequently than once every 5 years.

(12) A reservant may not make a change in a state water reservation under this section, except as permitted under 85-2-402 and this subsection. If the department approves a change, the department shall give notice and require the reservant to establish that the criteria in subsection (4) will be met under the approved change.

(13) A state water reservation may be transferred to another entity qualified to hold a reservation under subsection (1). Only the entity holding the reservation may initiate a transfer. The transfer occurs upon the filing of a water right ownership update form with the department, together with an affidavit from the entity receiving the reservation establishing that the entity is a qualified reservant under subsection (1), that the entity agrees to comply with the requirements of this section and the conditions of the reservation, and that the entity can meet the objectives of the reservation as granted. If the transfer of a state water reservation involves a change in an appropriation right, the necessary approvals must be acquired pursuant to subsection (12).

(14) This section does not vest the department with the authority to alter a water right that is not a state water reservation.

(15) The department shall undertake a program to educate the public, other state agencies, and political subdivisions of the state as to the benefits of the state water reservation process and the procedures to be followed to secure the reservation of water. The department shall provide technical assistance to other state agencies and political subdivisions in applying for reservations under this section.

(16) Water reserved under this section is not subject to the state water leasing program established under 85-2-141."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 23, 2015

CHAPTER NO. 282

[SB 333]

AN ACT CLARIFYING POLICY TOWARD NONRESIDENT HUNTERS; AND AMENDING SECTION 87-3-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-3-303, MCA, is amended to read:

"87-3-303. Policy toward nonresident big game hunters. It ~~shall be~~ *is* the policy of this state to protect and preserve game animals primarily for the citizens of this state ~~and to avoid the deliberate waste of wildlife and destruction of property~~ *while welcoming nonresidents licensed to hunt in Montana to enjoy the state's public wildlife resources and acknowledging nonresidents' financial contribution to Montana's wildlife management and tourism industry* ~~by nonresidents licensed to hunt in this state~~."

Approved April 23, 2015

CHAPTER NO. 283

[SB 361]

AN ACT CLARIFYING WHO MAY OBJECT TO PROCEEDINGS IN THE WATER COURT BY REVISING THE DEFINITION OF "GOOD CAUSE SHOWN"; AND AMENDING SECTION 85-2-233, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-233, MCA, is amended to read:

"85-2-233. Hearing on decrees or petition — procedure. (1) (a) For good cause shown and subject to the provisions of subsection (9), a hearing must be held before the water judge on any objection to a temporary preliminary decree, a preliminary decree, or a petition for judicial determination under 85-2-222 by:

(i) the department;

(ii) a person named in the temporary preliminary decree or preliminary decree;

(iii) any person within the basin entitled to receive notice under 85-2-232(1); or

(iv) any other person who claims rights to the use of water from sources in other basins that are hydrologically connected to the sources within the decreed basin and who would be entitled to receive notice under 85-2-232 if the claim or claims were from sources within the decreed basin.

(b) For the purposes of this subsection (1), "good cause shown" means a written statement showing that a person has an ownership*, leasehold, economic, or clearly demonstrated particularized* interest in ~~water or its use~~ *an existing water right, permit, certificate, state water reservation under 85-2-316, or right to receive water through an irrigation project and* that *the person's interest* has been affected by the decree.

(c) A person does not waive the right to object to a preliminary decree by failing to object to a temporary preliminary decree issued before March 28, 1997. However, a person may not raise an objection to a matter in a preliminary decree if that person was a party to the matter when the matter was previously litigated and resolved as the result of an objection raised in a temporary

preliminary decree unless the objection is allowed for any of the following reasons:

(i) mistake, inadvertence, surprise, or excusable neglect;

(ii) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), Montana Rules of Civil Procedure;

(iii) fraud, misrepresentation, or other misconduct of an adverse party;

(iv) the judgment is void; or

(v) any other reason justifying relief from the operation of the judgment.

(d) After March 28, 1997, a person may not raise an objection or counterobjection to a matter contained in a subsequent decree issued under this part if the matter was contained in a prior decree issued under this part for which there was an objection and counterobjection period unless the objection is allowed for any of the following reasons:

(i) mistake, inadvertence, surprise, or excusable neglect;

(ii) newly discovered evidence that by due diligence could not have been discovered at the close of the objection period set forth in subsection (2);

(iii) fraud, misrepresentation, or other misconduct of an adverse party;

(iv) the temporary preliminary decree is void; or

(v) any other reason justifying relief from the operation of the prior decree issued under this part. The fact that a prior owner of a water right did not object or counterobject at a prior decree stage may not be a basis for a subsequent owner of the water right to object or counterobject absent a finding that one of the provisions in this subsection (1)(d) applies.

(2) Objections must be filed with the water judge within 180 days after entry of the temporary preliminary decree or preliminary decree. The water judge may, for good cause shown, extend this time limit up to two additional 90-day periods if application for an extension is made prior to expiration of the original 180-day period or any extension of it.

(3) Upon expiration of the time for filing objections under subsection (2), the water judge shall notify each party whose claim received an objection that an objection was filed. The notice must set forth the name of each objector and must allow an additional 60 days for the party whose claim received an objection to file a counterobjection to the claim or claims of the objector. Counterobjections must be limited to those claims that are included within the particular decree issued by the court.

(4) Objections and counterobjections must specify the paragraphs and pages containing the findings and conclusions to which objection is made. The request must state the specific grounds and evidence on which the objections are based.

(5) (a) Upon expiration of the time for filing counterobjections under subsection (3), the water judge shall notify each party named in the temporary preliminary decree or preliminary decree or that person's successor as documented in the department records and shall notify the attorney general that objections and counterobjections have been filed. The water judge shall fix a day when all parties who wish to participate in future proceedings are required to appear or file a statement. The water judge shall then set a date for a hearing. The water judge may conduct individual or consolidated hearings. A hearing must be conducted in the same manner as for other civil actions. At the order of the water judge, a hearing may be conducted by the water master, who shall

prepare a report of the hearing as provided in Rule 53(e), Montana Rules of Civil Procedure.

(b) In conducting hearings pursuant to this chapter, a water judge may require the parties to participate in settlement conferences or may assign the matter to a mediator. Any settlement reached by the parties is subject to review and approval by a water judge.

(6) (a) After the issuance of a temporary preliminary decree or preliminary decree, notice must be published once a week for 3 consecutive weeks in two newspapers of general circulation in the basin where the decree was issued for:

(i) a motion to amend a statement of claim that may adversely affect other water rights;

(ii) a motion to amend a timely objection that may adversely affect other water rights; or

(iii) a petition for judicial determination as provided for in 85-2-222.

(b) The notice must specify that any response or objection to the proposed amendment must be filed within 45 days of the date of the last notice.

(c) The water judge may order any additional notice of the motion as the water judge considers necessary.

(d) The costs of the notice required pursuant to this subsection must be borne by the moving party.

(7) Failure to object under subsection (1) to a compact negotiated and ratified under 85-2-702 or 85-2-703 bars any subsequent cause of action in the water court.

(8) If the court sustains an objection to a compact, it may declare the compact void. The agency of the United States, the tribe, or the United States on behalf of the tribe party to the compact is permitted 6 months after the court's determination to file a statement of claim, as provided in 85-2-224, and the court shall issue a new preliminary decree in accordance with 85-2-231. However, any party to a compact declared void may appeal from that determination in accordance with those procedures applicable to 85-2-235, and the filing of a notice of appeal stays the period for filing a statement of claim as required under this subsection.

(9) Upon petition by a claimant, the water court may grant a motion for dismissal to an objection to a temporary preliminary or preliminary decree if the objection pertains to an element of a water right that was previously decreed and if dismissal is consistent with common-law principles of issue and claim preclusion.

(10) The provisions of subsection (9) do not apply to issues arising after entry of the previous decree, including but not limited to the issues of abandonment, expansion of the water right, and reasonable diligence.

(11) All issue remarks, as defined in 85-2-250, must be finally resolved before the issuance of a final decree."

Approved April 23, 2015

CHAPTER NO. 284

[HB 60]

AN ACT REVISING PENALTY AND INTEREST PROVISIONS FOR GASOLINE AND SPECIAL FUEL TAXES; AMENDING PROVISIONS RELATED TO THE WAIVER OF PENALTIES; AND AMENDING SECTIONS 15-70-210 AND 15-70-352, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-70-210, MCA, is amended to read:

"15-70-210. Tax penalty for delinquency. (1) ~~Any~~ *Except for tax due under the agreement adopted under 15-70-121, any* license tax not paid within the time provided in 15-70-113(3) and 15-70-205 is delinquent~~, a~~. *A* penalty of 10% must be added to the tax, and the tax bears interest at the rate of 1% a month, prorated daily, from the date of delinquency until paid. ~~Upon a showing of good cause by the distributor, the department may waive any penalty.~~

~~(2) If a distributor or other person subject to the payment of the license tax willfully fails, neglects, or refuses to make any statement required by this part or willfully fails to make payment of the license tax within the time provided, the department may revoke any license issued under this part.~~

~~(3) The department shall set forth the information that it requires in the statement and determine the amount of the license tax due from the distributor and shall add a penalty of $100 or 10% of the amount due, whichever is greater, together with interest at the rate of 1% a month, prorated daily, from the date that the statements should have been made and the license tax should have been paid.~~

(2) Except as provided in subsection (3), a statement filed after the date required in 15-70-205 is subject to a $100 penalty.

(3) (a) The department shall waive the penalty if the late filing is the first offense within a 3-year period of timely filings.

(b) The department may waive the penalty if the director or the director's designee determines the late filing or payment to be beyond the distributor's control.

(4) If a distributor or other person required to pay the license tax willfully fails, neglects, or refuses to file any statement required by this part or willfully fails to pay the license tax within the time provided, the department may revoke any license issued under this part.

~~(4)~~*(5)* ~~The~~ *Except as provided in subsection (3), the* department shall proceed to collect ~~the~~ *a delinquent* license tax, with penalties and interest. At the request of the department, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the license tax."

Section 2. Section 15-70-352, MCA, is amended to read:

"15-70-352. Penalties for delinquency. (1) ~~Any~~ *Except for tax due under the agreement adopted under 15-70-121, any* license tax not paid within the time provided in 15-70-113(3) and 15-70-344 is delinquent~~, a~~. *A* penalty of 10% ~~is~~ *must be* added to the tax, and the tax bears interest at the rate of 1% *per month*, prorated daily, ~~on the tax due for each calendar month~~ *from the date of delinquency until paid.* ~~Upon a showing of good cause by the distributor, the department may waive the penalty.~~

~~(2) If a distributor or other person subject to the payment of the license tax willfully fails, neglects, or refuses to make any statement required by this part or willfully fails to make payment of the license tax within the time provided, the department may revoke any license issued under this part.~~

~~(3) The department shall set forth the information it requires in the statement and determine the amount of the license tax due from the distributor and shall add a penalty of $100 or 10% of the amount due, whichever is greater, together with an interest rate of 1% a month, prorated daily, from the date the statements should have been made and the license tax should have been paid.~~

(2) Except as provided in subsection (3), a statement filed after the date required in 15-70-344 is subject to a $100 penalty.

(3) (a) The department shall waive the penalty if the late filing is the first offense within a 3-year period of timely filings.

(b) The department may waive the penalty if the director or the director's designee determines the late filing or payment to be beyond the distributor's control.

(4) If a distributor or other person required to pay the license tax willfully fails, neglects, or refuses to file any statement required by this part or willfully fails to pay the license tax within the time provided, the department may revoke any license issued under this part.

~~(4)~~*(5)* ~~The~~ *Except as provided in subsection (3), the* department shall proceed to collect ~~the~~ *a delinquent* license tax, with penalties and interest. At the request of the department, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the license tax."

Section 3. Coordination instruction. If both House Bill No. 99 and [this act] are passed and approved, then section 15-70-352(4) in [this act] must read as follows:

"(4) If a distributor or other person required to pay the tax willfully fails, neglects, or refuses to file any statement required by this part or willfully fails to pay the tax within the time provided, the department may revoke any license issued under this part."

Approved April 24, 2015

CHAPTER NO. 285

[HB 89]

AN ACT GENERALLY REVISING HUMAN TRAFFICKING LAWS; PROVIDING FOR TRAFFICKING-RELATED OFFENSES; PROVIDING PENALTIES; PROVIDING EVIDENTIARY STANDARDS FOR TRAFFICKING PROSECUTIONS; PROVIDING IMMUNITY FOR CHILD TRAFFICKING VICTIMS; PROVIDING AN AFFIRMATIVE DEFENSE; PROVIDING FOR TRAFFICKING VICTIM CONFIDENTIALITY; ESTABLISHING A CIVIL CAUSE OF ACTION FOR TRAFFICKING VICTIMS; ESTABLISHING PROTOCOL FOR ASSISTING TRAFFICKING VICTIMS IN ACCESSING CERTAIN SERVICES OR BENEFITS; CREATING A HUMAN TRAFFICKING EDUCATION SPECIAL REVENUE ACCOUNT; EXTENDING THE TERMINATION DATE OF THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTIONS 1-1-411, 44-5-311, 46-18-111, 46-18-201, 46-18-203, 46-18-205, 46-18-207, 46-18-222, 46-18-231, 46-18-608, 46-23-502, AND 46-23-1011, MCA; REPEALING SECTIONS

45-5-305, 45-5-306, 45-5-310, AND 45-5-311, MCA; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 10], the following definitions apply:

(1) "Adult" means a person 18 years of age or older.

(2) "Coercion" means:

(a) the use or threat of force against, abduction of, serious harm to, or physical restraint of a person;

(b) the use of a plan, pattern, or statement with intent to cause a person to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of a person;

(c) the abuse or threatened abuse of law or legal process;

(d) controlling or threatening to control a person's access to any substance defined as a dangerous drug pursuant to Title 50, chapter 32, parts 1 and 2;

(e) the actual or threatened destruction or taking of a person's identification document or other property;

(f) the use of debt bondage;

(g) the use of a person's physical or mental impairment when the impairment has a substantial adverse effect on the person's cognitive or volitional function; or

(h) the commission of civil or criminal fraud.

(3) "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) "Debt bondage" means inducing a person to provide:

(a) commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(b) labor or services in payment toward or satisfaction of a real or purported debt if:

(i) the reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) the length of the labor or services is not limited and the nature of the labor or services is not defined.

(5) "Human trafficking" means the commission of an offense under [section 2, section 3, section 4, or section 5].

(6) "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.

(7) "Labor or services" means activity having economic value.

(8) "Serious harm" means physical or nonphysical harm, including psychological, economic, or reputational harm to a person that would compel a reasonable person of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(9) "Sexual activity" means any sex act or simulated sex act intended to arouse or gratify the sexual desire of any person**.** The term includes a sexually explicit performance.

(10) "Sexually explicit performance" means a live, public, private, photographed, recorded, or videotaped act or simulated act intended to arouse or gratify the sexual desire of any person.

Section 2. Trafficking of persons. (1) A person commits the offense of trafficking of persons if the person purposely or knowingly:

(a) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices another person intending or knowing that the person will be subjected to involuntary servitude or sexual servitude; or

(b) benefits, financially or by receiving anything of value, from participation in a venture that has subjected another person to involuntary servitude or sexual servitude.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed $50,000, or both.

(b) A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 50 years and may be fined not more than $100,000 if:

(i) the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide; or

(ii) the victim was a child.

Section 3. Involuntary servitude. (1) A person commits the offense of involuntary servitude if the person purposely or knowingly uses coercion to compel another person to provide labor or services, unless the conduct is otherwise permissible under federal or state law.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of involuntary servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed $50,000, or both.

(b) A person convicted of the offense of involuntary servitude shall be imprisoned in the state prison for a term of not more than 50 years and may be fined not more than $100,000 if:

(i) the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide; or

(ii) the victim was a child.

Section 4. Sexual servitude. (1) A person commits the offense of sexual servitude if the person purposely or knowingly:

(a) uses coercion or deception to compel an adult to engage in commercial sexual activity; or

(b) recruits, transports, transfers, harbors, receives, provides, obtains by any means, isolates, entices, maintains, or makes available a child for the purpose of commercial sexual activity.

(2) It is not a defense in a prosecution under subsection (1)(b) that the child consented to engage in commercial sexual activity or that the defendant believed the child was an adult.

(3) (a) A person convicted of the offense of sexual servitude under subsection (1)(a) shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed $50,000, or both.

(b) A person convicted of the offense of sexual servitude under subsection (1)(b) shall be imprisoned in the state prison for a term of not more than 25 years and fined an amount not to exceed $75,000.

Section 5. Patronizing victim of sexual servitude. (1) A person commits the offense of patronizing a victim of sexual servitude if the person purposely or knowingly gives, agrees to give, or offers to give anything of value so that a person may engage in commercial sexual activity with:

(a) another person who the person knows is a victim of sexual servitude; or

(b) a child.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of patronizing a victim of sexual servitude shall be imprisoned in the state prison for a term of 15 years, fined an amount not to exceed $50,000, or both.

(b) If the individual patronized was a child, a person convicted of the offense of patronizing a victim of sexual servitude, whether or not the person believed the child was an adult, shall be imprisoned in the state prison for a term of not more than 25 years and fined an amount not to exceed $75,000.

Section 6. Aggravating circumstance. (1) An aggravating circumstance during the commission of an offense under [section 2, section 3, section 4, or section 5] occurs when the defendant recruited, enticed, or obtained the victim of the offense from a shelter that serves runaway youth, foster children, homeless persons, or persons subjected to human trafficking, domestic violence, or sexual assault.

(2) If the trier of fact finds that an aggravating circumstance occurred during the commission of an offense under [section 2, section 3, section 4, or section 5], the defendant may be imprisoned for up to 5 years in addition to the period of imprisonment prescribed for the offense. An additional sentence prescribed by this section must run consecutively to the sentence provided for the underlying offense.

Section 7. Property subject to forfeiture — human trafficking. (1) (a) A person commits the offense of use or possession of property subject to criminal forfeiture for human trafficking if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section. A person convicted of the offense of use or possession of property subject to criminal forfeiture shall be imprisoned in the state prison for a term not to exceed 10 years.

(b) Property is subject to criminal forfeiture under this section if it is used or intended for use in violation of [section 2, section 3, section 4, or section 5].

(c) The following property is subject to criminal forfeiture under this section:

(i) money, raw materials, products, equipment, and other property of any kind;

(ii) property used or intended for use as a container for property enumerated in subsection (1)(c)(i);

(iii) except as provided in subsection (2), a conveyance, including an aircraft, vehicle, or vessel;

(iv) books, records, research products and materials, formulas, microfilm, tapes, and data;

(v) anything of value furnished or intended to be furnished in exchange for the provision of labor or services or commercial sexual activity and all proceeds traceable to the exchange;

(vi) negotiable instruments, securities, and weapons; and

(vii) personal property constituting or derived from proceeds obtained directly or indirectly from the provision of labor or services or commercial sexual activity.

(2) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purposes described in subsection (1)(b).

(3) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property for the purposes described in subsection (1)(b).

(4) Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for a violation as described in subsection (1)(b) may seize a conveyance obtained with the proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or release ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose;

(ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding under the provisions of Title 44, chapter 12, or this section;

(iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a peace officer has probable cause to believe that the property was used or is intended to be used under the circumstances described in subsection (1)(b).

(5) A forfeiture proceeding under subsection (1) must be commenced within 45 days of the seizure of the property involved.

(6) The procedure for forfeiture proceedings in 44-12-201 through 44-12-205 applies to property seized pursuant to this section.

(7) Upon conviction, the property subject to criminal forfeiture is forfeited to the state and proceeds from the sale of property seized under this section must be distributed to the holders of security interests who have presented proper proof of their claims up to the amount of their interests in the property. The remainder, if any, must be deposited in the crime victims compensation account provided for in 53-9-113.

Section 8. Past sexual behavior of victim. In a prosecution for an offense under [section 2, section 3, section 4, or section 5] or a civil action under [section 11], evidence concerning a specific instance of the victim's past sexual behavior or reputation or opinion evidence of the victim's past sexual behavior is inadmissible unless the evidence is admitted in accordance with 45-5-511(2) or offered by the prosecution to prove a pattern of human trafficking by the defendant.

Section 9. Immunity of child. (1) A person is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution, promoting

prostitution, or other nonviolent offenses if the person was a child at the time of the offense and committed the offense as a direct result of being a victim of human trafficking.

(2) A person who has engaged in commercial sexual activity is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution or promoting prostitution if the person was a child at the time of the offense.

(3) A child who under subsection (1) or (2) is not subject to criminal liability or proceedings under Title 41, chapter 5, is presumed to be a youth in need of care under Title 41, chapter 3.

(4) This section does not apply in a prosecution under 45-5-601 or a proceeding under Title 41, chapter 5, for patronizing a prostitute.

Section 10. Affirmative defense. A person charged with prostitution, promoting prostitution, or another nonviolent offense committed as a direct result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.

Section 11. Civil action — human trafficking victim. (1) A victim of human trafficking may bring a civil action against a person who commits an offense against the victim under [section 2, section 3, section 4, or section 5] for compensatory damages, punitive damages, injunctive relief, and any other appropriate relief.

(2) If a victim prevails in an action under this section, the court shall award the victim reasonable attorney fees and costs.

(3) An action under this section must be commenced not later than 10 years after the later of:

(a) the date on which the victim no longer was subject to human trafficking; or

(b) the date on which the victim reached 18 years of age.

(4) This section does not preclude any other remedy available to the victim under federal or state law.

(5) For the purposes of this section, the term "human trafficking" has the meaning provided in [section 1].

Section 12. Eligibility for benefit or service. (1) A victim of human trafficking is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1, regardless of immigration status.

(2) A child who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1, regardless of immigration status or factors described in 53-9-125.

(3) As soon as practicable after a first encounter with a person who reasonably appears to be a victim of human trafficking or a child who has engaged in commercial sexual activity, law enforcement shall notify the appropriate state agency that the person may be eligible for a benefit or service under the laws of this state.

(4) For the purposes of [sections 12 through 14], the terms "commercial sexual activity" and "human trafficking" have the meanings provided in [section 1].

Section 13. Law enforcement protocol. (1) On request from a person who a law enforcement officer reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the

person to qualify for a nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C. 1101(a)(15)(U) or for continued presence under 22 U.S.C. 7105(c)(3), the law enforcement officer, as soon as practicable after receiving the request, shall complete, sign, and give to the person the Form I-914B or Form I-918B provided by the United States citizenship and immigration services on its website and ask a federal law enforcement officer to request continued presence.

(2) If the law enforcement agency determines that a person does not meet the requirements for the agency to comply with subsection (1), the agency shall inform the person of the reason and that the person may make another request and submit additional evidence satisfying the requirements.

Section 14. Human trafficking education account. There is a human trafficking education account in the state special revenue fund for the purposes of preventing and detecting human trafficking. Money in this account may be expended by the department of justice to raise awareness about human trafficking and educate the public and law enforcement on how to prevent and detect human trafficking in this state.

Section 15. Section 1-1-411, MCA, is amended to read:

"1-1-411. Certain state services denied to illegal aliens. (1) To the extent allowed by federal law and the Montana constitution and ~~notwithstanding any other state law~~ *except as provided in [section 12]*, a state agency may not provide a state service to an illegal alien and shall comply with the requirements of this section.

(2) To determine whether an applicant for a state service is an illegal alien, the agency may use the systematic alien verification for entitlements program provided by the United States department of homeland security or any other lawful method of making the determination.

(3) A state agency shall notify appropriate personnel in immigration and customs enforcement under the United States department of homeland security or its successor of any illegal alien applying for a state service.

(4) An agency shall require a person seeking a state service to provide proof of United States citizenship or legal alien status.

(5) A state agency shall execute any written agreement required by federal law to implement this section.

(6) As used in this section, the following definitions apply:

(a) "Agency" means a department, board, commission, committee, authority, or office of the legislative or executive branches of state government, including a unit of the Montana university system.

(b) "Illegal alien" means an individual who is not a citizen of the United States and who has unlawfully entered or remains unlawfully in the United States.

(c) "State service" means a payment of money, the grant of a state license or permit, or the provision of another valuable item or service under any of the following programs and provisions of law:

(i) employment with a state agency;

(ii) qualification as a student in the university system for the purposes of a public education, as provided in 20-25-502;

(iii) student financial assistance, as provided in Title 20, chapter 26;

(iv) issuance of a state license or permit to practice a trade or profession, as provided in Title 37;

(v) unemployment insurance benefits, as provided in Title 39, chapter 51;

(vi) vocational rehabilitation, as provided in Title 53, chapter 7;

(vii) services for victims of crime, as provided in Title 53, chapter 9;

(viii) services for the physically disabled, as provided in Title 53, chapter 19, parts 3 and 4;

(ix) a grant, as provided in Title 90."

Section 16. Section 44-5-311, MCA, is amended to read:

"44-5-311. Nondisclosure of information about victim. (1) If a victim of an offense requests confidentiality, a criminal justice agency may not disseminate, except to another criminal justice agency, the address, telephone number, or place of employment of the victim or a member of the victim's family unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause.

(2) The court may not compel a victim or a member of the victim's family who testifies in a criminal justice proceeding to disclose on the record in open court a residence address or place of employment unless the court determines that disclosure of the information is necessary.

(3) A criminal justice agency may not disseminate to the public any information directly or indirectly identifying the victim of an offense committed under 45-5-502, 45-5-503, 45-5-504, ~~or~~ 45-5-507*, [section 2], [section 3], [section 4], or [section 5]* unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause."

Section 17. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation — when required. (1) (a) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under ~~45-5-310, 45-5-311,~~ 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), 45-5-625, 45-5-627, *[section 4], [section 5],* or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(c) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and

the defendant's needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(d) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a $50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5)."

Section 18. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order

that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) participation in the sobriety program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(p) participation in a restorative justice program approved by court order and payment of a participation fee of up to $150 for program expenses if the program agrees to accept the offender;

(q) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(r) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(q).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."

Section 19. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender

has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

(i) the terms and conditions of the suspended or deferred sentence; or

(ii) a condition of supervision after release from imprisonment imposed pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that

does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(9) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

Section 20. Section 46-18-205, MCA, is amended to read:

"46-18-205. Mandatory minimum sentences — restrictions on deferral or suspension. (1) If the victim was less than 16 years of age, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under the following sections may not be deferred or suspended and the provisions of 46-18-222 do not apply to the first 30 days of the imprisonment:

(a) 45-5-503, sexual intercourse without consent;

(b) 45-5-504, indecent exposure;

(c) 45-5-507, incest; or

(d) 45-8-218, deviate sexual conduct.

(2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:

(a) 45-5-103(4), mitigated deliberate homicide;

(b) 45-5-202, aggravated assault;

(c) 45-5-302(2), kidnapping;

(d) 45-5-303(2), aggravated kidnapping;

(e) 45-5-401(2), robbery;

(f) 45-5-502(3), sexual assault;

(g) 45-5-503(2) and (3), sexual intercourse without consent;

(h) 45-5-603, aggravated promotion of prostitution;

(i) 45-9-101(2), (3), and (5)(d), criminal distribution of dangerous drugs;

(j) 45-9-102(4), criminal possession of dangerous drugs; and

(k) 45-9-103(2), criminal possession with intent to distribute dangerous drugs.

(3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or suspended.

(4) The provisions of this section do not apply to sentences imposed pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4)."

Section 21. Section 46-18-207, MCA, is amended to read:

"46-18-207. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If, following a conviction for a sexual offense as defined in 46-23-502, any portion of a person's sentence is suspended, during the suspended portion of the sentence the person:

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.

(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended."

Section 22. Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility. Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, the restrictions on deferred imposition and suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility prescribed by 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4) do not apply if:

(1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced;

(2) the offender's mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection.

(3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;

(4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor;

(5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense; or

(6) the offense was committed under ~~45-5-310, 45-5-311,~~ 45-5-502(3), 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4) and the judge determines, based on the findings contained in a sexual offender evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination."

Section 23. Section 46-18-231, MCA, is amended to read:

"46-18-231. Fines in felony and misdemeanor cases. (1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

(b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

(i) 45-5-103(4), mitigated deliberate homicide;

(ii) 45-5-202, aggravated assault;

(iii) 45-5-213, assault with a weapon;

(iv) 45-5-302(2), kidnapping;

(v) 45-5-303(2), aggravated kidnapping;

~~(vi) 45-5-310 or 45-5-311, sexual servitude of a child or patronizing a child;~~

~~(vii)~~*(vi)* 45-5-401(2), robbery;

~~(viii)~~*(vii)* 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault;

~~(ix)~~*(viii)* 45-5-503(2) through (4), sexual intercourse without consent;

~~(x)~~*(ix)* 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;

~~(xi)~~*(x)* 45-5-601(3), 45-5-602(3), or 45-5-603(2)(b), prostitution, promotion of prostitution, or aggravated promotion of prostitution when the person patronized or engaging in prostitution was a child and the patron was 18 years of age or older at the time of the offense;

~~(xii)~~*(xi)* 45-5-625(4), sexual abuse of children;

~~(xiii)~~*(xii)* 45-9-101(2), (3), and (5)(d), criminal possession with intent to distribute a narcotic drug, criminal possession with intent to distribute a dangerous drug included in Schedule I or Schedule II, or other criminal possession with intent to distribute a dangerous drug;

~~(xiv)~~*(xiii)* 45-9-102(4), criminal possession of an opiate;

~~(xv)~~*(xiv)* 45-9-103(2), criminal possession of an opiate with an intent to distribute; and

~~(xvi)~~*(xv)* 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property.

(2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3).

(3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed $50,000."

Section 24. Section 46-18-608, MCA, is amended to read:

"46-18-608. Motion to vacate ~~prostitution~~ conviction — *human* trafficking victims. (1) On the motion of a person, a court may vacate a person's conviction of ~~the offense of prostitution under 45-5-601~~ *prostitution, promoting prostitution, or another nonviolent offense* if the court finds that the person's participation in the offense was a *direct* result of having been a victim of ~~trafficking for commercial sexual activity under 45-5-306~~ *human trafficking* or of sex trafficking under the federal Trafficking Victims Protection Act, 22 U.S.C. 7103 through 7112.

(2) The motion must:

(a) be made within a reasonable time after the person ceased to be involved in *human* trafficking ~~for commercial sexual activity~~ or sought services for *human* trafficking victims, subject to reasonable concerns for the safety of the person, family members of the person, or other victims of *human* trafficking who could be jeopardized by filing a motion under this section; and

(b) state why the facts giving rise to the motion were not presented to the court during the prosecution of the person.

(3) ~~Official~~ *No official determination or documentation is required to grant a motion by a person under this section, but official* documentation from a local government or a state or federal agency of the person's status as a victim of *human* trafficking ~~for commercial sexual activity~~ creates a rebuttable presumption that the person's participation in the offense ~~of prostitution~~ was a *direct* result of having been a victim of *human* trafficking ~~for commercial sexual activity~~.

(4) If a court vacates a conviction ~~of prostitution~~ under this section, the court shall:

(a) send a copy of the order vacating the conviction to the prosecutor and the department of justice accompanied by a form prepared by the department of justice and containing identifying information about the person; and

(b) inform the person whose conviction has been vacated under this section that the person may be eligible for certain state and federal programs and services and provide the person with information for contacting appropriate state and federal victim services organizations. After the conviction is vacated, all records and data relating to the conviction are confidential criminal justice information, as defined in 44-5-103, and public access to the information may be obtained only by district court order upon good cause shown.

(5) For the purposes of this section, the term "human trafficking" has the meaning provided in [section 1]."

Section 25. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), ~~45-5-310, 45-5-311,~~ 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), ~~or~~ 45-5-625*, [section 4], or [section 5]*; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

Section 26. Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana.

(3) The probation and parole officer shall regularly advise and consult with the probationer to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(4) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to ~~45-5-310, 45-5-311,~~ 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

(5) (a) Upon recommendation of the probation and parole officer, a judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

(b) Subsection (5)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision.

(c) If the department certifies to the sentencing judge that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the judge may not place an offender on probation under supervision by that district office unless the judge grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the judge for conditional discharge. The judge may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

Section 27. Section 14, Chapter 374, Laws of 2009, is amended to read:

"Section 14. Termination. [This act] terminates June 30, ~~2015~~ *2021*."

Section 28. Repealer. The following sections of the Montana Code Annotated are repealed:

45-5-305. Subjecting another to involuntary servitude — definitions.

45-5-306. Trafficking of persons for involuntary servitude.

45-5-310. Sexual servitude of child.

45-5-311. Patronizing of child.

Section 29. Codification instruction. (1) [Sections 1 through 10] are intended to be codified as an integral part of Title 45, chapter 5, and the provisions of Title 45, chapter 5, apply to [sections 1 through 10].

(2) [Section 11] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 11].

(3) [Sections 12 through 14] are intended to be codified as an integral part of Title 44, chapter 4, part 15, and the provisions of Title 44, chapter 4, part 15, apply to [sections 12 through 14].

Section 30. Effective date. [This act] is effective July 1, 2015.

Approved April 24, 2015

CHAPTER NO. 286

[HB 196]

AN ACT CLARIFYING THAT REIMBURSEMENTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES ARE FOR SERVICES RENDERED; REVISING THE MAXIMUM REIMBURSEMENT; AMENDING SECTIONS 20-1-225 AND 20-25-428, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-225, MCA, is amended to read:

"20-1-225. Compliance with Military Selective Service Act for postsecondary financial assistance — rulemaking — definitions. (1) A postsecondary educational institution may not provide student financial assistance to or enroll as a student an individual who is receiving or will receive student financial assistance unless the individual has complied with the registration requirements of the federal Military Selective Service Act, 50 App. U.S.C. 451, et seq. However, this prohibition does not apply to an individual who:

(a) by a preponderance of the evidence shows that the failure to register was not done knowingly or willfully; or

(b) is exempt from registration under the provisions of the Military Selective Service Act.

(2) The board of regents shall adopt rules to implement this section.

(3) The following definitions apply to this section:

(a) "Postsecondary educational institution" means:

(i) the Montana university system; or

(ii) any other postsecondary school:

(A) accepting as a student an individual receiving student financial assistance; or

(B) accepting state funds.

(b) "Student financial assistance":

(i) means a grant, loan, or insurance on a loan, all or a part of which is provided by the state; and

(ii) includes money given or to be given pursuant to:

(A) the ~~financial assistance~~ *reimbursement* for *services provided to* resident nonbeneficiary students provision in 20-25-428;

(B) the work-study program provided for in Title 20, chapter 25, part 7;

(C) the Montana resident student financial assistance program provided for in Title 20, chapter 26, parts 1 and 2; or

(D) the guaranteed student loan program provided for in Title 20, chapter 26, part 11."

Section 2. Section 20-25-428, MCA, is amended to read:

"20-25-428. ~~Financial assistance~~ *Tribal college reimbursement* for *services provided to* resident nonbeneficiary students. (1) Subject to a line item appropriation for purposes of this section, the regents shall provide ~~financial assistance~~ *a reimbursement* to tribally controlled community colleges for enrolled resident nonbeneficiary students who, except as provided in subsection (8), are taking courses for which credit is transferable to another Montana college or university.

(2) Each tribal community college shall apply ~~for this assistance~~ to the regents *for this reimbursement*. Except as provided in subsection (6), the money must be distributed on a prorated basis according to the eligible resident nonbeneficiary student enrollment in each tribal community college during the previous year. To qualify, a resident nonbeneficiary student must meet the residency requirements as prescribed for the system by the regents and, except as provided in subsection (8), must be enrolled in courses for which credit is transferable to another Montana college or university. The ~~distribution for any student is limited to a maximum of $3,024 each year~~ *distribution for any resident nonbeneficiary student reimbursement must be limited to a maximum annual amount of $3,280* for each full-time equivalent student.

(3) ~~An expenditure~~ *A reimbursement* is contingent upon the tribal community college:

(a) being accredited or being a candidate for accreditation by the northwest commission on colleges and universities;

(b) entering into a contract or a state-tribal cooperative agreement, pursuant to Title 18, chapter 11, with the regents to provide the regents with information relating to eligibility of resident nonbeneficiary students and documentation on the curriculum to ensure that the content and quality of courses offered by the tribal community college are consistent with the standards adopted by the system;

(c) providing the regents with documentation that credits for the courses in which the resident nonbeneficiary students are enrolled, except as provided in subsection (8), will be accepted at another Montana college or university; and

(d) filing with the regents evidence that the college's enrollment of Indian students is at least 51%, as required by the Tribally Controlled Community College Assistance Act of 1978, 25 U.S.C. 1804.

(4) If funding is available pursuant to subsection (1), the legislature intends that the money be an amount in addition to the system budget approved in the general appropriations act.

(5) All funds appropriated under subsection (1) that are unspent revert to the state general fund.

(6) Prior to receiving money pursuant to subsection (1), each tribal community college shall grant to eligible resident nonbeneficiary students who meet the residency requirements, as prescribed for the system by the regents, fee waivers in the same percentage as the number of Indian students who are receiving fee waivers to attend a unit of the system bears to the total enrollment in the system.

(7) The calculation in subsection (6) is not intended to allow the university system to retain the calculated amount of funds. Waivers must be given to eligible students.

(8) The limit of financial assistance to nonbeneficiary students is limited to students enrolled in courses for which credit is transferable to another Montana college or university.

(9) As used in this section, "resident nonbeneficiary student" means a resident of the state of Montana who is not:

(a) a member of an Indian tribe; or

(b) a biological child of a member of an Indian tribe, living or deceased."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 24, 2015

CHAPTER NO. 287

[HB 337]

AN ACT INCREASING THE RESOURCE LIMITS FOR WORKERS WITH DISABILITIES WHO ARE RECEIVING MEDICAID; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-6-113, MCA, is amended to read:

"53-6-113. (Temporary) Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount,

scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) *(a)* The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(b) The department may not apply financial criteria below $15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below $15,000 for an individual and $30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length

of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

(10) The department may adopt rules for implementing and administering one or more patient-centered medical home programs. The rules may include but are not limited to provider qualifications, coverage groups, services coverage, measures to ensure the appropriateness and quality of services delivered, payment rates and fees, and utilization measures. In implementing and administering patient-centered medical home programs, the department shall use only health care providers that have been qualified by the commissioner and authorized to use the designation of a patient-centered medical home. The department shall use the standards adopted by the commissioner for patient-centered medical homes under 33-40-105, except for those standards relating to settling payment rates and fees and any standards that may conflict with federal medicaid requirements. (Terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)

53-6-113. (Effective January 1, 2018) Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) *(a)* The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child

support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(b) The department may not apply financial criteria below $15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below $15,000 for an individual and $30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature."

Section 2. Section 53-6-131, MCA, is amended to read:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is:

(i) under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs; or

(ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) *(a)* The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(b) The department may not count as a resource an individual retirement account that was established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-195 if:

(i) the person is no longer eligible for coverage under 53-6-195; and

(ii) the individual retirement account was established during the time the person was receiving benefits through the medicaid program for workers with disabilities.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 24, 2015

CHAPTER NO. 288

[HB 358]

AN ACT GENERALLY REVISING LAWS RELATING TO LICENSED ADDICTION COUNSELORS; TRANSFERRING THE DUTIES RELATED TO REGULATING LICENSED ADDICTION COUNSELORS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; RENAMING AND REVISING THE MEMBERSHIP OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REQUIRING APPLICANTS FOR LICENSURE AS ADDICTION COUNSELORS TO SUBMIT TO BACKGROUND CHECKS; REVISING REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS ADDICTION COUNSELORS; PROVIDING A DEFINITION OF "ADDICTION COUNSELOR LICENSURE CANDIDATE"; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-22-201, 37-23-102, 37-35-102, 37-35-103, 37-35-201, 37-35-202, AND 37-37-102, MCA; AND REPEALING SECTIONS 37-35-301, 37-35-303, AND 37-35-304, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1744, MCA, is amended to read:

"2-15-1744. Board of ~~social work examiners and professional counselors~~ *behavioral health.* (1) (a) The governor shall appoint, with the consent of the senate, a board of ~~social work examiners and professional counselors~~ *behavioral health* consisting of ~~seven~~ *nine* members.

(b) ~~Three~~ *Three* members must be licensed social workers, and ~~three~~ *three* must be licensed professional counselors. *At least one of these members who is licensed as a social worker or professional counselor must also be licensed as a marriage and family therapist.*

(c) ~~One member~~ *One member* must be appointed from and represent the general public and may not be engaged in social work.

(d) Two members must be licensed addiction counselors.

(2) The board is allocated to the department for administrative purposes only as provided in 2-15-121.

(3) Members shall serve staggered 4-year terms."

Section 2. Section 37-17-104, MCA, is amended to read:

"37-17-104. Exemptions. (1) Except as provided in subsection (2), this chapter does not prevent:

(a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

(b) the activities, services, and use of an official title clearly delineating the nature and level of training on the part of a person in the employ of a federal, state, county, or municipal agency or of other political subdivisions or an educational institution, business corporation, or research laboratory insofar as these activities and services are a part of the duties of the office or position within the confines of the agency or institution;

(c) the activities and services of a student, intern, or resident in psychology pursuing a course of study at an accredited university or college or working in a generally recognized training center if these activities and services constitute a part of the supervised course of study of the student, intern, or resident in psychology;

(d) the activities and services of a person who is not a resident of this state in rendering consulting psychological services in this state when these services are rendered for a period which does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of that person's residence to perform these activities and services. However, these persons shall report to the department the nature and extent of the services in this state prior to providing those services if the services are to exceed 10 days in a calendar year.

(e) a person authorized by the laws of the state or country of the person's former residence to perform activities and services, who has recently become a resident of this state and who has submitted a completed application for a license in this state, from performing the activities and services pending disposition of the person's application; and

(f) the offering of lecture services.

(2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

(3) The board of ~~social work examiners and professional counselors~~ *behavioral health* shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations. ~~Final rules must be adopted by October 1, 2010.~~ A qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from the date of adoption of the rules."

Section 3. Section 37-22-102, MCA, is amended to read:

"37-22-102. Definitions. As used in this chapter:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established ~~under~~ *in* 2-15-1744.

(2) "Department" means the department of labor and industry.

(3) "Licensee" means a person licensed under this chapter.

(4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision of social services;

(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

(e) helping communities to organize to provide or improve social and health services;

(f) research or teaching related to social work; and

(g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment."

Section 4. Section 37-22-201, MCA, is amended to read:

"37-22-201. Duties of board. The board:

(1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, *Title 37, chapter 35,* and Title 37, chapter 37, to the attorney general or the appropriate county attorney, or both;

(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 23, *35,* and 37 and this chapter. The board may, once a year by a consensus of board members, determine that there is no necessity for a board meeting.

(3) shall adopt rules that set professional, practice, and ethical standards for social workers, marriage and family therapists, *addiction counselors,* and professional counselors and other rules as may be reasonably necessary for the administration of chapters 23*, 35,* and 37 and this chapter; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 5. Section 37-23-102, MCA, is amended to read:

"37-23-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established ~~under~~ *in* 2-15-1744.

(2) "Licensee" means a person licensed under this chapter.

(3) "Professional counseling" means engaging in methods and techniques that include:

(a) counseling, which means the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include

developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

(d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources."

Section 6. Section 37-35-102, MCA, is amended to read:

"37-35-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Accredited college or university" means a college or university accredited by a regional or national accrediting association for institutions of higher learning.

(2) "Addiction" means the condition or state in which an individual is physiologically or psychologically dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

(3) "Addiction counselor licensure candidate" means a person who is registered pursuant to 37-35-202(5) to engage in addiction counseling and earn supervised work experience necessary for licensure.

~~(3)~~*(4)* ~~"Department" means the department of labor and industry provided for in 2-15-1701.~~ *"Board" means the board of behavioral health provided for in 2-15-1744.*

~~(4)~~*(5)* "Licensed addiction counselor" means a person who has the knowledge and skill necessary to provide the therapeutic process of addiction and gambling dependence impulse control disorder counseling and who is licensed under the provisions of this chapter."

Section 7. Section 37-35-103, MCA, is amended to read:

"37-35-103. ~~Department~~ *Board* powers and duties. (1) The ~~department~~ *board* shall:

(a) license and renew the licenses of qualified applicants;

(b) adopt rules:

(i) for eligibility requirements and competency standards;

(ii) defining any unprofessional conduct that is not included in ~~37-1-410~~ *37-1-316*; and

(iii) setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.

(2) The ~~department~~ *board* may:

(a) adopt rules necessary to implement the provisions of this chapter;

(b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and

(c) establish licensure requirements and procedures that the ~~department~~ *board* considers appropriate."

Section 8. Section 37-35-201, MCA, is amended to read:

"37-35-201. License required — exceptions. (1) Except as otherwise provided in this chapter, a person may not practice addiction counseling or represent to the public that the person is a licensed addiction counselor unless the person is licensed under the provisions of this chapter.

(2) This chapter does not prohibit an activity or service:

(a) performed by a qualified member of a profession, such as a physician, lawyer, licensed professional counselor, licensed social worker, licensed

psychiatrist, licensed psychologist, nurse, probation officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or certification and the code of ethics of the person's profession, as long as the person does not represent by title that the person is a licensed addiction counselor. If a person is a qualified member of a profession that is not licensed or certified or for which there is no applicable code of ethics, this section does not prohibit an activity or service of the profession as long as the person does not represent by title that the person is a licensed addiction counselor.

(b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution if that activity or service or use of that title is a part of the duties of the office or position;

(c) of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) of a student in addiction counseling who is pursuing a course of study at an accredited college or university or who is working in a generally recognized training center if the activity or service constitutes part of the course of study; ~~or~~

(e) of a person who is registered as an addiction counselor licensure candidate; or

~~(e)~~*(f)* of a person who is not a resident of this state if the activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under the laws of the state or country of residence to perform the activity or service. However, the person shall report to the ~~department~~ *board* the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

(3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana."

Section 9. Section 37-35-202, MCA, is amended to read:

"37-35-202. Licensure *and registration* requirements — examination — fees — ~~temporary practice permit~~ — *fingerprint check.* (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the ~~department~~ *board* by rule and a written application on a form provided by the ~~department~~ *board* that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by ~~department~~ *board* rule.

(2) A person may apply for licensure as a licensed addiction counselor if the person has:

(a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology, social work, or counseling, or a comparable degree from an accredited college or university; or

(b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse from an accredited institution.

(3) Prior to becoming eligible to begin the examination process, each person shall complete supervised work experience in an addiction treatment program as defined by the ~~department~~ *board*, in a program approved by the ~~department~~ *board*, or in a similar program recognized under the laws of another state.

(4) Each applicant shall successfully complete a competency examination, in writing only, as defined by rules adopted by the ~~department~~ *board*.

(5) (a) Except as provided in subsections (5)(d) and (6), an applicant who has completed ~~all licensure requirements except~~ *the requirements of subsection (2)*

but has not completed the required supervised work experience may apply for ~~a temporary practice permit that authorizes the applicant to complete the required supervised work experience~~ *registration as an addiction counselor licensure candidate*.

~~(b) Temporary practice permits must be issued if it is determined that:~~

(b) An application for registration as an addiction counselor licensure candidate must be approved if it is determined that:

(i) a complete application approved by the ~~department~~ *board* has been submitted;

(ii) ~~initial screening by program staff shows no current~~ *there is no legal or* disciplinary action against the applicant in this or any other state;

(iii) the applicant for ~~a temporary practice permit~~ *registration as an addiction counselor licensure candidate* may only function under the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and who has an active license in good standing in Montana or any other state; and

(iv) the applicant has completed all educational requirements as prescribed in subsection (2)(a) or (2)(b).

(c) A person ~~may practice licensed addiction counseling under a temporary practice permit until the person either fails the first license examination for which the person is eligible following issuance of the temporary practice permit or passes the examination and is granted a license~~ *registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate*.

(d) A student is not required to ~~obtain a temporary practice permit~~ *register as an addiction counselor licensure candidate*.

(6) The provisions of subsection (5) do not apply until the ~~department~~ *board* has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.

(7) (a) As a prerequisite to the issuance of a license and registration as an addiction counselor licensure candidate, the board shall require an applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust and if the board determines that the applicant is not, the license may be denied.

~~(7)~~*(8)* A person holding a license to practice as a licensed addiction counselor in this state may use the title "licensed addiction counselor".

~~(8)~~*(9)* For the purposes of this section, "comparable degree" means a degree with accredited college course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master's degree program if the applicant does not have a qualifying baccalaureate degree."

Section 10. Section 37-37-102, MCA, is amended to read:

"37-37-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~social work examiners and professional counselors~~ *behavioral health* established in 2-15-1744.

(2) "Department" means the department of labor and industry.

(3) "Licensee" means a person licensed under this chapter.

(4) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders within the context of interpersonal relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family system theories and techniques, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples, and families.

(5) "Practice of marriage and family therapy" means the provision of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either directly or through public or private organizations.

(6) "Qualified supervisor" means a supervisor determined by the board to meet standards established by the board for supervision of clinical services.

(7) "Recognized educational institution" means:

(a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized by the board and by a regional accrediting body; or

(b) a postgraduate training institute accredited by the commission on accreditation for marriage and family therapy education."

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

37-35-301. Unprofessional conduct complaint — sanctions.

37-35-303. Deposit of fees.

37-35-304. Transition — transfer of license.

Section 12. Name change — directions to code commissioner. Wherever a reference to the board of social work examiners and professional counselors appears in legislation enacted by the 2015 legislature, the code commissioner is directed to change it to a reference to the board of behavioral health.

Approved April 24, 2015

CHAPTER NO. 289

[HB 525]

AN ACT REVISING AQUATIC INVASIVE SPECIES FUNDING LAWS; CREATING A TRUST FUND AND A GRANT ACCOUNT; RESTRICTING TRUST FUND EXPENDITURES; PROVIDING GRANT CRITERIA; PROVIDING RULEMAKING AUTHORITY; ALLOWING TRUST FUNDS TO BE USED IN AN EMERGENCY; AMENDING SECTION 80-7-1013, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Invasive species trust fund. (1) There is an invasive species trust fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(2) The principal of the invasive species trust fund shall forever remain inviolate in an amount of $10 million unless appropriated by a vote of three-fourths of the members of each house of the legislature.

(3) Except as provided in 80-7-1013 and subsections (2) and (4) of this section, money deposited in the invasive species trust fund may not be appropriated until the principal reaches $10 million.

(4) On July 1 of each fiscal year, the principal of the invasive species trust fund in excess of $10 million and the interest and income generated from the trust fund, excluding unrealized gains and losses, must be deposited in the invasive species grant account established in [section 2].

(5) Deposits to the principal of the trust fund may include but are not limited to grants, gifts, transfers, bequests, or donations from any source.

(6) If the invasive species trust fund is terminated, the money in the fund must be divided between all counties according to rules adopted by the department of natural resources and conservation for that purpose.

Section 2. Invasive species grant account. (1) There is an invasive species grant account in the state special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in the account must be used pursuant to [section 3] and this section.

(2) Deposits to the account may include but are not limited to grants, gifts, transfers, bequests, donations, appropriations from any source, and deposits made pursuant to [section 1].

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(4) Money deposited in the account may be used for costs incurred by the department of natural resources and conservation to administer the provisions of [sections 1 through 3]. Except for startup costs incurred in the first year of the program, the administrative costs in any fiscal year, including but not limited to personal services and operations, may not exceed 10% of the total amount of grants and contracts awarded pursuant to [section 3] in the previous fiscal year.

Section 3. Invasive species grant program — criteria — rulemaking. (1) Money deposited in the invasive species grant account established in [section 2] may be expended by the department of natural resources and conservation through grants to or contracts with communities or local, state, tribal, or other entities for invasive species management.

(2) For the purposes of this section, the term "invasive species management" includes public education and planning, development, implementation, or continuation of a program or project to prevent, research, detect, control, or, where possible, eradicate invasive species.

(3) A grant or contract may be awarded under this section for demonstration of and research and public education on new and innovative invasive species management.

(4) In making grant and contract awards under this section, the department of natural resources and conservation shall give preference to local governments, collaborative stakeholders, and community groups that it determines can most effectively implement programs on the ground.

(5) If the governor appoints an advisory council on invasive species, the department of natural resources and conservation shall consider recommendations by the advisory council for awards made under this section.

(6) The department of natural resources and conservation is not eligible to receive grants and contracts under this section.

(7) The department of natural resources and conservation may accept federal funds for use pursuant to this section.

(8) Any funds awarded under this section, regardless of when they were awarded, that are not fully expended upon termination of a contract or an extension of a contract, not to exceed 1 year, must revert to the department of natural resources and conservation and be deposited in the invasive species grant account established in [section 2]. The department of natural resources and conservation shall use any reverted funds to make future awards pursuant to this section.

(9) The department of natural resources and conservation may adopt rules to administer the provisions of [sections 1 through 3].

Section 4. Section 80-7-1013, MCA, is amended to read:

"80-7-1013. Emergency response. (1) The governor may declare an invasive species emergency if*:*

(a) the introduction or spread of an invasive species has occurred or is imminent*;*

(b) a new and potentially harmful invasive species is discovered in the state and is verified by the departments; or

(c) the state is facing a potential influx of invasive species as the result of a natural disaster.

(2) If an emergency is declared pursuant to subsection (1), the governor may authorize the expenditure of funds pursuant to 10-3-312.

(3) In the absence of necessary funding from other sources, the principal of the invasive species trust fund established in [section 1] may be appropriated by a vote of three-fourths of the members of each house of the legislature to government agencies for emergency relief to eradicate or confine the new invasive species or to protect the state from an influx of invasive species due to a natural disaster."

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [sections 1 through 3].

Section 6. Effective date. [This act] is effective July 1, 2015.

Approved April 24, 2015

CHAPTER NO. 290

[HB 553]

AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES; REVISING DEPARTMENTAL DUTIES; ALLOWING OTHER ENTITIES TO OPERATE CHECK STATIONS; PROVIDING ENFORCEMENT; AND AMENDING SECTIONS 80-7-1006 AND 80-7-1015, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-1006, MCA, is amended to read:

"80-7-1006. Departmental responsibilities. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of

each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-1015;

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area *established* under 80-7-1008 ~~or~~ *and* in the statewide invasive species management area ~~under~~ *established in* 80-7-1015, including the mandatory inspection of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.

(5) The departments may designate employees to carry out the provisions of this part.

(6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.

~~(6)~~*(7)* The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species."

Section 2. Section 80-7-1015, MCA, is amended to read:

"80-7-1015. Statewide invasive species management area. (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

~~(2)~~*(3)* As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The

departments may coordinate with any other governmental entity for the posting of signs.

~~(3)~~*(4)* At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. A department may examine any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

~~(4)~~*(5)* The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

~~(5)~~*(6)* If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. The department shall make every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.

~~(6)~~*(7)* After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks."

Section 3. Enforcement. A peace officer, as defined in 45-2-101, may:

(1) stop the driver of a vehicle transporting a vessel or equipment on receiving a complaint or observing that the driver failed to stop at a check station as required under this part;

(2) upon particularized suspicion that a vessel or equipment is infested with an invasive species, require the driver of a vehicle transporting a vessel or equipment to submit the vessel or equipment to an inspection. The peace officer may conduct mandatory inspections of any interior portion of a vessel or equipment that may contain water for compliance with this part and rules adopted under this part only if:

(a) the peace officer obtains a search warrant, as defined in 46-1-202; or

(b) the vessel or equipment is physically located within the boundaries of an invasive species management area established under 80-7-1008 or the statewide invasive species management area established in 80-7-1015 and use of mandatory inspections has been included in quarantine measures established pursuant to 80-7-1008(3)(b)(i) or rules adopted under 80-7-1007.

(3) cite a person for a violation of this part.

Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [section 3].

Approved April 24, 2015

CHAPTER NO. 291

[HB 606]

AN ACT PROVIDING FOR A STATUTORY APPROPRIATION OF TITLE X FAMILY PLANNING FUNDS; CREATING A SPECIAL REVENUE ACCOUNT; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Special revenue account — statutory appropriation. (1) There is an account in the federal special revenue fund to the credit of the department. Money received by the state pursuant to Title X of the Public Health Service Act, 42 U.S.C. 300a, et seq., must be deposited into the account.

(2) The department shall use the money from the account to:

(a) make grants in accordance with federal law and regulations; and

(b) pay for grant-related administrative costs.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of subsection (2).

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; *[section 1];* 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101

through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 1, and the provisions of Title 50, chapter 1, apply to [section 1].

Section 4. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of federal special revenue funds for Title X activities, then the House Bill No. 2 appropriation for the public health and safety division of the department of public health and human services must be reduced by $1,923,234 in fiscal year 2016 and $1,922,547 in fiscal year 2017.

Section 5. Effective date. [This act] is effective July 1, 2015.

Section 6. Termination. [This act] terminates June 30, 2021.

Approved April 24, 2015

CHAPTER NO. 292

[SB 68]

AN ACT EXTENDING THE TERMINATION DATE FOR THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 14, Chapter 374, Laws of 2009, is amended to read:

"**Section 14. Termination.** [This act] terminates June 30, ~~2015~~ *2021*."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 24, 2015

CHAPTER NO. 293

[SB 253]

AN ACT GENERALLY REVISING LAWS RELATED TO POWERS OF APPOINTMENT; ADOPTING THE UNIFORM POWERS OF APPOINTMENT ACT; AND REPEALING SECTIONS 70-1-704, 72-2-618, AND 72-2-714, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 38] may be cited as the "Uniform Powers of Appointment Act".

Section 2. Definitions. As used in [sections 1 through 38], the following definitions apply:

(1) "Appointee" means a person to which a powerholder makes an appointment of appointive property.

(2) "Appointive property" means the property or property interest subject to a power of appointment.

(3) "Blanket-exercise clause" means a clause in an instrument that exercises a power of appointment and is not a specific-exercise clause. The term includes a clause that:

(a) expressly uses the words "any power" in exercising any power of appointment the powerholder has;

(b) expressly uses the words "any property" in appointing any property over which the powerholder has a power of appointment; or

(c) disposes of all property subject to disposition by the powerholder.

(4) "Donor" means a person who creates a power of appointment.

(5) "Exclusionary power of appointment" means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees.

(6) "General power of appointment" means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(7) "Gift-in-default clause" means a clause identifying a taker in default of appointment.

(8) "Impermissible appointee" means a person who is not a permissible appointee.

(9) "Instrument" means a writing.

(10) "Nongeneral power of appointment" means a power of appointment that is not a general power of appointment.

(11) "Permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment.

(12) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(13) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(14) "Powerholder" means a person in whom a donor creates a power of appointment.

(15) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. The term:

(a) includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(i) the occurrence of the specified event;

(ii) the satisfaction of the ascertainable standard; or

(iii) the passage of the specified time; and

(b) does not include a power exercisable only at the powerholder's death.

(16) "Specific-exercise clause" means a clause in an instrument that specifically refers to and exercises a particular power of appointment.

(17) "Taker in default of appointment" means a person who takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

(18) "Terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

Section 3. Governing law. Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

(1) the creation, revocation, or amendment of the power is governed by the law of the donor's domicile at the relevant time; and

(2) the exercise, release, or disclaimer of the power or the revocation or amendment of the exercise, release, or disclaimer of the power is governed by the law of the powerholder's domicile at the relevant time.

Section 4. Common law and principles of equity. The common law and principles of equity supplement this act, except to the extent modified by this act or a law of this state other than this act.

Section 5. Creation of power of appointment. (1) A power of appointment is created only if:

(a) the instrument creating the power:

(i) is valid under applicable law; and

(ii) except as otherwise provided in subsection (2), transfers the appointive property; and

(b) the terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

(2) Subsection (1)(a)(ii) does not apply to the creation of a power of appointment by the exercise of a power of appointment.

(3) A power of appointment may not be created in a deceased individual.

(4) Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

Section 6. Nontransferability. A powerholder may not transfer a power of appointment. If a powerholder dies without exercising or releasing a power, the power lapses.

Section 7. Presumption of unlimited authority. Subject to [section 8] and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:

(1) presently exercisable;

(2) exclusionary; and

(3) except as otherwise provided in [section 8], general.

Section 8. Exception to presumption of unlimited authority. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

(1) the power is exercisable only at the powerholder's death; and

(2) the permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors, or the creditors of the powerholder's estate.

Section 9. Rules of classification. (1) In this section, "adverse party" means a person with a substantial beneficial interest in property that would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(2) If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

(3) If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

Section 10. Power to revoke or amend. A donor may revoke or amend a power of appointment only to the extent that:

(1) the instrument creating the power is revocable by the donor; or

(2) the donor reserves a power of revocation or amendment in the instrument creating the power of appointment.

Section 11. Requisites for exercise of power of appointment. (1) A power of appointment is exercised only:

(a) if the instrument exercising the power is valid under applicable law;

(b) if the terms of the instrument exercising the power:

(i) manifest the powerholder's intent to exercise the power; and

(ii) subject to [section 14], satisfy the requirements of exercise, if any, imposed by the donor; and

(c) to the extent the appointment is a permissible exercise of the power.

(2) Notwithstanding any other provision of this act, the property subject to a power of appointment may not pass to and may not be administered as a part of the powerholder's probate estate unless:

(a) the power of appointment is a general one that expressly authorizes the powerholder to appoint the appointive property to his or her own estate; and

(b) the powerholder utilizes clear and unequivocal language demonstrating a specific intent to exercise the power in favor of his or her own estate.

Section 12. Intent to exercise — determining intent from residuary clause. (1) In this section:

(a) "Residuary clause" does not include a residuary clause containing a blanket-exercise clause or a specific-exercise clause.

(b) "Will" includes a codicil and a testamentary instrument that revises another will.

(2) A residuary clause in a powerholder's will or a comparable clause in the powerholder's revocable trust manifests the powerholder's intent to exercise a power of appointment only if:

(a) the terms of the instrument containing the residuary clause do not manifest a contrary intent;

(b) the power is a general power exercisable in favor of the powerholder's estate;

(c) there is no gift-in-default clause or the clause is ineffective; and

(d) the powerholder did not release the power.

Section 13. Intent to exercise — after-acquired power. Unless the terms of the instrument exercising a power of appointment manifest a contrary intent:

(1) except as otherwise provided in subsection (2), a blanket-exercise clause extends to a power acquired by the powerholder after executing the instrument containing the clause; and

(2) if the powerholder is also the donor of the power, the clause does not extend to the power unless there is no gift-in-default clause or the gift-in-default clause is ineffective.

Section 14. Substantial compliance with donor-imposed formal requirement. A powerholder's substantial compliance with a formal requirement of appointment imposed by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

(1) the powerholder knows of and intends to exercise the power; and

(2) the powerholder's manner of attempted exercise of the power does not impair a material purpose of the donor in imposing the requirement.

Section 15. Permissible appointment. (1) A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

(2) A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

(3) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(a) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(b) create a general power in a permissible appointee; or

(c) create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power.

Section 16. Appointment to deceased appointee or permissible appointee's descendant. (1) Subject to the antilapse provisions of 72-2-613, an appointment to a deceased appointee is ineffective.

(2) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, a powerholder of a nongeneral power may exercise the power in favor of or create a new power of appointment in a descendant of a deceased permissible appointee whether or not the descendant is described by the donor as a permissible appointee.

Section 17. Impermissible appointment. (1) Except as otherwise provided in [section 16], an exercise of a power of appointment in favor of an impermissible appointee is ineffective.

(2) An exercise of a power of appointment in favor of a permissible appointee is ineffective to the extent the appointment is a fraud on the power.

Section 18. Selective allocation doctrine. If a powerholder exercises a power of appointment in a disposition that also disposes of property the powerholder owns, the owned property and the appointive property must be allocated in the permissible manner that best carries out the powerholder's intent.

Section 19. Capture doctrine — disposition of ineffectively appointed property under general power. To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust, makes an ineffective appointment:

(1) the gift-in-default clause controls the disposition of the ineffectively appointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective, the ineffectively appointed property:

(a) passes to:

(i) the powerholder if the powerholder is a permissible appointee and living; or

(ii) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) if there is no taker under subsection (2)(a), passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 20. Disposition of unappointed property under released or unexercised general power. To the extent a powerholder releases or fails to exercise a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust:

(1) the gift-in-default clause controls the disposition of the unappointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective:

(a) except as otherwise provided in subsection (2)(b), the unappointed property passes to:

(i) the powerholder if the powerholder is a permissible appointee and living; or

(ii) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) to the extent the powerholder released the power or if there is no taker under subsection (2)(a), the unappointed property passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 21. Disposition of unappointed property under released or unexercised nongeneral power. To the extent a powerholder releases, ineffectively exercises, or fails to exercise a nongeneral power of appointment:

(1) the gift-in-default clause controls the disposition of the unappointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective, the unappointed property:

(a) passes to the permissible appointees if:

(i) the permissible appointees are defined and limited; and

(ii) the terms of the instrument creating the power do not manifest a contrary intent; or

(b) if there is no taker under subsection (2)(a), passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 22. Disposition of unappointed property if partial appointment to taker in default. Unless the terms of the instrument creating or exercising a power of appointment manifest a contrary intent, if the powerholder makes a valid partial appointment to a taker in default of appointment, the taker in default of appointment may share fully in unappointed property.

Section 23. Appointment to taker in default. If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property under a gift-in-default clause had the property not been appointed, the power of appointment is deemed not to have been exercised and the appointee takes under the default clause.

Section 24. Powerholder's authority to revoke or amend exercise. A powerholder may revoke or amend an exercise of a power of appointment only to the extent that:

(1) the powerholder reserves a power of revocation or amendment in the instrument exercising the power of appointment and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or

(2) the terms of the instrument creating the power of appointment provide that the exercise is revocable or amendable.

Section 25. Disclaimer. As provided by 72-2-811:

(1) a powerholder may disclaim all or part of a power of appointment; and

(2) a permissible appointee, appointee, or taker in default of appointment may disclaim all or part of an interest in appointive property.

Section 26. Authority to release. A powerholder may release a power of appointment in whole or in part, except to the extent the terms of the instrument creating the power prevent the release.

Section 27. Method of release. A powerholder of a releasable power of appointment may release the power in whole or in part:

(1) by substantial compliance with a method provided in the terms of the instrument creating the power; or

(2) if the terms of the instrument creating the power do not provide a method or the method provided in the terms of the instrument is not expressly made exclusive, by a writing manifesting the powerholder's intent by clear and convincing evidence.

Section 28. Revocation or amendment of release. A powerholder may revoke or amend a release of a power of appointment only to the extent that:

(1) the instrument of release is revocable by the powerholder; or

(2) the powerholder reserves a power of revocation or amendment in the instrument of release.

Section 29. Power to contract — presently exercisable power of appointment. A powerholder of a presently exercisable power of appointment may contract:

(1) not to exercise the power; or

(2) to exercise the power if the contract when made does not confer a benefit on an impermissible appointee.

Section 30. Power to contract — power of appointment not presently exercisable. A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

(1) is also the donor of the power; and

(2) has reserved the power in a revocable trust.

Section 31. Remedy for breach of contract to appoint or not to appoint. The remedy for a powerholder's breach of a contract to appoint or not to appoint appointive property is limited to damages payable out of the appointive property or, if appropriate, specific performance of the contract.

Section 32. Creditor claim — general power created by powerholder. (1) In this section, "power of appointment created by the powerholder" includes a power of appointment created in a transfer by another person to the extent the powerholder contributed value to the transfer.

(2) Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in the Uniform Fraudulent Transfer Act, 31-2-326 through 31-2-342, and in 70-20-401, 70-20-402, and 70-20-405.

(3) Subject to subsection (2), appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.

(4) Subject to subsections (2) and (3) and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:

(a) the powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and

(b) the powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

Section 33. Creditor claim — general power not created by powerholder. (1) Except as otherwise provided in subsection (2), appointive property subject to a general power of appointment created by a person other than the powerholder is subject to a claim of a creditor of:

(a) the powerholder, to the extent the powerholder's property is insufficient, if the power is presently exercisable; and

(b) the powerholder's estate, to the extent the estate is insufficient, subject to the right of a decedent to direct the source from which liabilities are paid.

(2) Subject to [section 35(3)], a power of appointment created by a person other than the powerholder that is subject to an ascertainable standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. Section 2041(b)(1)(A) or 26 U.S.C. Section 2514(c)(1), on [the effective date of this act], is treated for purposes of this act as a nongeneral power.

Section 34. Power to withdraw. (1) For purposes of this section and except as otherwise provided in subsection (2), a power to withdraw property

from a trust is treated, during the time the power may be exercised, as a presently exercisable general power of appointment to the extent of the property subject to the power to withdraw.

(2) On the lapse, release, or waiver of a power to withdraw property from a trust, the power is treated as a presently exercisable general power of appointment only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in 26 U.S.C. Section 2041(b)(2) and 26 U.S.C. Section 2514(e) or the amount specified in 26 U.S.C. Section 2503(b) on [the effective date of this act].

Section 35. Creditor claim — nongeneral power. (1) Except as otherwise provided in subsections (2) and (3), appointive property subject to a nongeneral power of appointment is exempt from a claim of a creditor of the powerholder or the powerholder's estate.

(2) Appointive property subject to a nongeneral power of appointment is subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent that the powerholder owned the property and, reserving the nongeneral power, transferred the property in violation of the Uniform Fraudulent Transfer Act, 31-2-326 through 31-2-342.

(3) If the initial gift in default of appointment is to the powerholder or the powerholder's estate, a nongeneral power of appointment is treated for purposes of this act as a general power.

Section 36. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 37. Relation to electronic signatures in global and national commerce. This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 38. Application to existing relationships. (1) Except as otherwise provided in this act, on and after [the effective date of this act]:

(a) this act applies to a power of appointment created before, on, or after [the effective date of this act];

(b) this act applies to a judicial proceeding concerning a power of appointment commenced on or after [the effective date of this act];

(c) this act applies to a judicial proceeding concerning a power of appointment commenced before [the effective date of this act] unless the court finds that application of a particular provision of this act would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of this act does not apply and the superseded law applies;

(d) a rule of construction or presumption provided in this act applies to an instrument executed before [the effective date of this act] unless there is a clear indication of a contrary intent in the terms of the instrument; and

(e) except as otherwise provided in subsections (1)(a) through (1)(d), an action done before [the effective date of this act] is not affected by this act.

(2) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that commenced under law of this state other than this act before [the effective date of this act], the law continues to apply to the right.

Section 39. Codification instruction. [Sections 1 through 38] are intended to be codified as an integral part of Title 72, and the provisions of Title 72 apply to [sections 1 through 38].

Section 40. Repealer. The following sections of the Montana Code Annotated are repealed:

70-1-704. Creation or exercise of power to appoint to estate.

72-2-618. Exercise of power of appointment.

72-2-714. Power of appointment — meaning of specific reference requirement.

Approved April 24, 2015

CHAPTER NO. 294

[SB 262]

AN ACT RATIFYING A WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA; CREATING A UNITARY ADMINISTRATION AND MANAGEMENT ORDINANCE TO GOVERN WATER RIGHTS ON THE FLATHEAD RESERVATION; PROVIDING EXCEPTIONS FROM CERTAIN STATE WATER LAWS RELATED TO DEPARTMENT POWERS, JUDICIAL ENFORCEMENT, AND WATER RIGHTS PERMITTING; AMENDING SECTIONS 3-7-211, 85-2-111, 85-2-114, 85-2-301, 85-2-302, 85-2-306, 85-2-427, 85-2-506, AND 85-5-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Water rights compact entered into by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, the State of Montana, and the United States ratified. This Compact is entered into by and among the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, the State of Montana, and the United State of America to settle all existing claims to water of or on behalf of the Confederated Salish and Kootenai Tribes within the State of Montana.

ARTICLE I - RECITALS

WHEREAS, pursuant to the Hellgate Treaty of 1855, 12 Stat. 975, the Confederated Salish and Kootenai Tribes reserved the Flathead Indian Reservation; and

WHEREAS, the Confederated Salish and Kootenai Tribes claim aboriginal water rights and, pursuant to said Treaty, reserved water rights to fulfill the purposes of the Treaty and the Reservation; and

WHEREAS, in 1979, the United States, on its own behalf and on behalf of the Confederated Salish and Kootenai Tribes, their members and Allottees brought suit in the United States District Court for the District of Montana to obtain a final determination of the Tribes' water rights claims, see United States v. Abell, No. CIV-79-33-M (filed April 5, 1979); and

WHEREAS, as a result of Congressional action and subsequent judicial interpretation, state courts have been found to possess, under certain circumstances, adjudicatory jurisdiction over federal reserved water rights held in trust by the United States for the benefit of Indians; see, McCarran Amendment 43 U.S.C. 666; Colorado River Conservation District v. United

States, 424 U.S. 800 (1976); Arizona v. San Carlos Apache Tribe, 463 U.S. 545 (1983); and

WHEREAS, the State of Montana initiated a general stream adjudication pursuant to the provisions of Chapter 697, Laws of Montana 1979, which includes claims regarding the Confederated Salish and Kootenai Tribes' water rights; and

WHEREAS, the Montana Reserved Water Rights Compact Commission, under 85-2-702(1), MCA, is authorized to negotiate settlement of water rights claims filed by Indian tribes or filed on their behalf by the United States claiming reserved waters within the State of Montana; and

WHEREAS, the Federal district court litigation was stayed in 1983 pending the outcome of Montana State court water adjudication proceedings, see Northern Cheyenne v. Adsit, 721 F.2d 1187 (9th Cir.1983); and

WHEREAS, the adjudication of Confederated Salish and Kootenai Tribes' water rights in the State court proceeding has been stayed while negotiations are proceeding to conclude a compact resolving all water rights claims of the Confederated Salish and Kootenai Tribes; and

WHEREAS, the Confederated Salish and Kootenai Tribes, or their duly designated representatives, have authority to negotiate the Compact and the Tribal Council has the authority to execute this Compact pursuant to Article 6, Section 1, subsections (a), (c), and (u) of the Constitution and Bylaws of the Confederated Salish and Kootenai Tribes said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended; and

WHEREAS, the United States Attorney General, or a duly designated official of the United States Department of Justice, has authority to execute this Compact on behalf of the United States pursuant to the authority to settle litigation contained in 28 U.S.C. 516-17 and the Federal legislation ratifying this Compact identified in Article VIII.B; and

WHEREAS, the Secretary of the Interior, or a duly designated official of the United States Department of the Interior, has authority to execute this Compact on behalf of the United States Department of the Interior pursuant to 43 U.S.C. 1457, inter alia, and appropriate Federal legislation ratifying this Compact as identified in Article VIII.B; and

WHEREAS, the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States agree that the Tribal Water Right and other water rights described in this Compact, subject to the provisions of the Act of Congress identified in Article VIII.B, is in satisfaction of the water rights claims of the Tribes, their members and Allottees, and of the United States on behalf of the Tribes and their members and Allottees; and

WHEREAS, the Parties agree that it is in the best interest of all Parties that the water rights claims of the Confederated Salish and Kootenai Tribes be settled through agreement between and among the Tribes, the State of Montana, and the United States; and

WHEREAS, the Parties agree that there is a clear hydrological interrelationship between the surface water and Groundwater of the Reservation, and each use of water on the Reservation may affect water use by all water users on the Reservation; and

WHEREAS, the Parties agree that prudent and knowledgeable conservation, management, and protection of the water resources of the

Reservation are essential to the health and welfare of all residents of the Reservation; and

WHEREAS, the Parties seek to secure to all residents of the Reservation the quiet enjoyment of the use of waters of the Reservation for beneficial uses; and

WHEREAS, the Parties agree to protect Tribal Instream Flows, Existing Uses, and Historic Farm Deliveries to Flathead Indian Irrigation Project irrigators; and

WHEREAS, the Parties desire to create a unitary administration system that would provide a single system for the appropriation and administration of the waters of the Reservation and for the establishment and maintenance of a single system of centralized records for all water uses of the Reservation regardless of whether the use is based on State or Federal law.

NOW THEREFORE, the Parties agree to enter into the Compact for the purpose of settling the water rights claims of the Confederated Salish and Kootenai Tribes, their members, and Allottees of the Flathead Indian Reservation, and of the United States on behalf of the Tribes, their members and Allottees, and to provide the necessary foundation for the establishment of a board composed of Tribal and State appointed representatives to provide for the unified administration of all water resources on the Reservation.

ARTICLE II - DEFINITIONS

The following definitions shall apply for purposes of the Compact:

1. "Acre-foot" or "Acre-feet" means the amount of water necessary to cover one acre to a depth of one foot and is equivalent to 43,560 cubic feet of water.

2. "Adaptive Management" means an ongoing process of decision-making, based on water measurement and accounting designed to continuously manage and improve the allocation of water between Instream Flows, Minimum Reservoir Pool Elevations, and FIIP Water Use Rights pursuant to the Adaptive Management Appendix 3.5.

3. "Allottee" or "Allottees" means an owner of an interest in a tract of land held in trust by the United States which was allotted pursuant to the Act of April 23, 1904, 33 Stat. 302, as amended, or the Act of February 25, 1920, 41 Stat. 452, as amended.

4. "Alternate Value" means, as applied to the consensual agreements provided for by Article III.G.3, the quantity of water allowed under a claim decreed by the Montana Water Court or water right granted by the DNRC.

5. "Appropriation Right" means a right to appropriate water issued by the Water Management Board pursuant to the terms of this Compact and the Law of Administration.

6. "Arising Under State Law" means, as applied to a water right, a water right created under Montana law or a water right held by a nonmember of the Tribes on land not held in trust by the United States for the Tribes or a Tribal member and for which a claim was required to be filed in the Montana general stream adjudication.

7. "Basin 76D" means the hydrologic Basin 76D, including the Kootenai River and its tributaries, as shown in Appendix 1.

8. "Basin 76E" means the hydrologic Basin 76E, including Rock Creek and its tributaries, as shown in Appendix 1.

9. "Basin 76F" means the hydrologic Basin 76F, including the Blackfoot River and its tributaries, as shown in Appendix 1.

10. "Basin 76G" means the hydrologic Basin 76G, including the Clark Fork River above the Blackfoot River, and its tributaries, as shown in Appendix 1.

11. "Basin 76GJ" means the hydrologic Basin 76GJ, including Flint Creek and its tributaries, as shown in Appendix 1.

12. "Basin 76H" means the hydrologic Basin 76H, including the Bitterroot River and its tributaries, as shown in Appendix 1.

13. "Basin 76I" means the hydrologic Basin 76I, including the Middle Fork of the Flathead River and its tributaries, as shown in Appendix 1.

14. "Basin 76J" means the hydrologic Basin 76J, including the South Fork of the Flathead River and its tributaries, as shown in Appendix 1.

15. "Basin 76K" means the hydrologic Basin 76K, including the Swan River and its tributaries, as shown in Appendix 1.

16. "Basin 76L" means the hydrologic Basin 76L, including the Flathead River below Flathead Lake, and its tributaries, as shown in Appendix 1.

17. "Basin 76LJ" means the hydrologic Basin 76LJ, including the Flathead River to and including Flathead Lake, and its tributaries, as shown in Appendix 1.

18. "Basin 76M" means the hydrologic Basin 76M, including the Clark Fork River between the Blackfoot River and the Flathead River, and its tributaries, as shown in Appendix 1.

19. "Basin 76N" means the hydrologic Basin 76N, including the Clark Fork River below the Flathead River, and its tributaries, as shown in Appendix 1.

20. "Call" means the right of the holder of a water right with a senior priority date and an immediate need for a use of water to require a holder of a water right with a junior priority date to refrain from appropriating water otherwise physically available until the senior water right is satisfied.

21. "Cfs" means cubic feet per second.

22. "Change in Use" means an authorized change in the point of diversion, the place of use, the period of use, the purpose of use, or the place of storage of an Appropriation Right issued by the Water Management Board under this Compact and the Law of Administration, or of an Existing Use. A changed water right retains the original priority date of that right.

23. "Compact" means this water rights settlement entered into by the Confederated Salish and Kootenai Tribes, the State and the United States.

24. "Compact Implementation Technical Team" or "CITT" means the entity established by this Compact to plan and advise the Project Operator on the implementation of FIIP Operational Improvements, Rehabilitation and Betterment, and Adaptive Management. The CITT duties and responsibilities are defined in more detail in Appendix 3.5.

25. "Compact Management Committee" or "CMC" means the entity described in Article IV.G.5 formed to provide policy and administrative oversight of the CITT.

26. "Court of Competent Jurisdiction" means a State or Tribal court that otherwise has jurisdiction over the matter so long as the parties to the dispute to be submitted to that court consent to its exercise of jurisdiction, but if no such court exists, a Federal court.

27. "DNRC" means the Montana Department of Natural Resources and Conservation, or any successor agency.

28. "Effective Date" means the date on which the Compact is finally approved by the Tribes, by the State, and by the United States, and on which the

Law of Administration has been enacted and taken effect as the law of the State and the Tribes, whichever date is latest.

29. "Existing Use" means a use of water under color of Tribal, State or Federal law in existence as of the Effective Date, including uses in existence on that date that are eligible for either of the registration processes set forth in the Law of Administration; provided that any portion of a Water Right Arising Under State Law within the Reservation that is, at any point after the date the ratification of the Compact by the Montana Legislature takes effect under State law, voluntarily relinquished or is legally determined to be abandoned, relinquished, or have otherwise ceased to exist, shall be stricken from the relevant basin decree as a Water Right Arising Under State Law and be entitled to no further protection as such a right or as an Existing Use.

30. "Flathead Indian Irrigation Project" or "FIIP" means the irrigation project developed by the United States to irrigate lands within the Reservation pursuant to the Act of April 23, 1904, Public Law 58-159, 33 Stat. 302 (1904), and the Act of May 29, 1908, Public Law 60-156, 35 Stat. 441 (1908), and includes, but is not limited to, all lands, reservoirs, easements, rights-of-way, canals, ditches, laterals, or any other FIIP facilities (whether situated on or off the Reservation), headgates, pipelines, pumps, buildings, heavy equipment, vehicles, supplies, records or copies of records and all other physical, tangible objects, whether of real or personal property, used in the management and operation of the FIIP.

31. "FIIP Influence Area" means the lands influenced by the operations of the FIIP as identified on the map attached hereto as Appendix 2.

32. "FIIP Water Use Right" means the water right set forth in Article III.C.1.a that is dedicated to use by the FIIP and FIIP irrigators and includes uses of water for irrigation and Incidental Purposes allowed by the FIIP through water service contracts. This water right is the source for the entitlement to delivery of available irrigation water for assessed parcels as provided by Article IV.D.2.

33. "Flathead Indian Reservation" or "Reservation" means all land within the exterior boundaries of the Indian Reservation established under the July 16, 1855 Treaty of Hellgate (12 Stat. 975), notwithstanding the issuance of any patent, and including rights-of-way running through the Reservation.

34. "Flathead Reservation Water Management Board," "Water Management Board," or "Board" means the entity established by this Compact and the Law of Administration to administer the use of all water rights on the Reservation upon the Effective Date.

35. "Flathead System Compact Water" means that portion of the Tribal Water Right consisting of 229,383 Acre-feet per year that the Tribes may withdraw from the Flathead River or Flathead Lake, which includes up to 90,000 Acre-feet per year stored in Hungry Horse Reservoir, with a maximum total volume consumed of 128,158 Acre-feet per year.

36. "Historic Farm Deliveries" means the aggregate annual volume of water for irrigation and Incidental Purposes on the FIIP that was delivered to all farm turnouts within an individual River Diversion Allowance Area prior to the date the ratification of the Compact by the Montana Legislature takes effect under State law. Historic Farm Deliveries include historic crop consumption and estimated standard rates of on-farm conveyance and irrigation application inefficiencies and are used to evaluate RDA values pursuant to Article IV.D.1.e. Historic Farm Delivery volumes are specified in Appendix 3.3.

37. "Groundwater" means any water that is beneath the surface of the earth.

38. "High Mountain Lakes" means those lakes shown in Appendix 17.

39. "Hungry Horse Dam" means the dam that is a part of the Hungry Horse Project.

40. "Hungry Horse Project" means that project authorized by the Act of June 5, 1944 (58 Stat. 270, Public Law 78-329) to be constructed and operated by the US Bureau of Reclamation. The Act of May 29, 1958 (Public Law 85-428) amended the authorizing act to make Hungry Horse a Reclamation project subject to Reclamation laws.

41. "Hungry Horse Reservoir" means the reservoir that is a part of the Hungry Horse Project.

42. "Incidental Purpose(s)" means water delivered through or diverted from FIIP facilities for purposes incidental to irrigation, including but not limited to Rehabilitation and Betterment, and lawn and garden purposes allowed by the FIIP through water service contracts.

43. "Individual Indian Owner" means a Tribal member and his or her heirs or an Allottee and his or her heirs who is an owner of an interest in trust or restricted lands and who has a documented use of the Tribal Water Right registered pursuant to the terms of this Compact and the Law of Administration.

44. "Instream Flow" means a stream flow retained in a watercourse to benefit the aquatic environment. Instream Flow may include Natural Flow or streamflow affected by regulation, diversion, or other modification. A water right for Instream Flow purposes is quantified for a stream reach and measured for enforcement purposes at a specified point.

45. "Law of Administration" or "Unitary Administration and Management Ordinance" means the body of laws enacted by both the State and the Tribes to provide for the administration of surface water and Groundwater within the Reservation, that are both materially consistent with the substantive provisions of Appendix 4.

46. "Lease" means, as applied to the Tribal Water Right, an authorization for a Person or Persons to use any part of the Tribal Water Right through a service contract, temporary assignment, or other similar agreement of limited duration.

47. "MFWP" means the Montana Department of Fish, Wildlife, and Parks, or any successor agency.

48. "Minimum Enforceable Instream Flows" or "MEFs" means the schedule of monthly minimum enforceable streamflow levels that are set forth in Appendix 3.1.

49. "Minimum Reservoir Pool Elevations" means the minimum pool water elevations for FIIP reservoirs specified in the table attached hereto as Appendix 3.1 and abstracts of water right attached hereto as Appendix 15.

50. "Natural Flow" means the rate and volume of water movement past a specified point on a natural stream, produced from a drainage area for which there have been no effects caused by diversion, storage, import, export, return flow, or changes in consumptive use.

51. "New Development" means the development of a use of the Tribal Water Right set forth in the Compact, from any source, commencing after the Effective Date, and encompasses all uses of the Tribal Water Right not included within the definition of Existing Use.

52. "Operational Improvements" means practices that improve the ability of the Project Operator to plan for and manage water storage and allocation between Instream Flows and FIIP Water Use Rights. Operational Improvements address water supply planning, reservoir management, Instream Flow management, water accounting and reporting, Stock Water delivery, irrigation wastewater, measurement at diversion works, water measurement at farm delivery locations, and water measurement at irrigation wasteways. Operational Improvements are set forth in the schedule attached hereto as Appendix 3.4.

53. "Parties" means the Tribes, the State, and the United States.

54. "Person" means an individual or any other entity, public or private, including the Tribes, the State, and the United States, and all officers, agents and departments of each sovereign.

55. "Project Operator" means the entity with the legal authority and responsibility to operate the Flathead Indian Irrigation Project.

56. "Reallocated Water" means the water from that portion of any given FIIP diversion or RDA that is made available through increased efficiency resulting from Rehabilitation and Betterment projects.

57. "Rehabilitation and Betterment" means both irrigation facility upgrades that improve water management and operational control at irrigation diversion works, and irrigation facility upgrades to reduce losses in conveyance of water from irrigation sources of supply to irrigation points of use. Rehabilitation and Betterment actions include, but are not limited to, reconstruction, replacement, and automation at irrigation diversion works; lining of open canals; and placement of open canals in pipe.

58. "River Diversion Allowance" or "RDA" means initially the volume of water identified in Appendix 3.2 and defined for wet, normal and dry Natural Flow years that is necessary to be diverted or pumped to supply the FIIP Water Use Right. As Reallocated Water is made available through Rehabilitation and Betterment, the RDA is the amount defined in Appendix 3.2, reduced by the volume of Reallocated Water made available by a particular Rehabilitation and Betterment project.

59. "River Diversion Allowance Area" or "RDA Area" means geographic divisions of the FIIP to which water is diverted. RDA Areas are depicted in Appendix 3.2.

60. "Secretary" means the Secretary of the United States Department of the Interior, or the Secretary's duly authorized representative.

61. "Shared Shortages" means a water management procedure to be applied when water supply is insufficient to satisfy both MEFs and RDAs simultaneously.

62. "State" means the State of Montana and all officers, agencies, departments and political subdivisions thereof.

63. "Stock Water" means water used for livestock.

64. "Target Instream Flows" or "TIFs" means the schedule of monthly Instream Flow levels, defined for normal and wet Natural Flow years that are identified in Appendix 3.1.

65. "Tribal Council" means the duly elected governing body of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

66. "Tribal Natural Resources Department" means the governmental subdivision of the Tribes authorized by Tribal Ordinance No. 78-B, as amended, or any successor agency.

67. "Tribal Water Right" means the water rights of the Confederated Salish and Kootenai Tribes, including any Tribal member or Allottee, the basis of which are federal law, as set forth in Article III.A, Article III.C.1.a through j, Article III.C.1.k.i, Article III.C.1.l.i, Article III.D.1 through 3 and Article III.D.7 and 8. The term "Tribal Water Right" also includes those rights identified in Article III.H that are appurtenant to lands taken into trust by the United States on behalf of the Tribes.

68. "Tribes" means the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and all officers, agencies, and departments thereof.

69. "United States" means the Federal government and all officers, agencies and departments thereof.

70. "Water Rights Arising Under State Law" means those valid water rights Arising Under State Law existing as of the Effective Date and not subsequently relinquished or abandoned, as those rights are: decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permitted by the DNRC; exempted from filing in the Montana general stream adjudication pursuant to 85-2-222, MCA; or excepted from the permitting process pursuant to 85-2-306, MCA.

71. "Wetland" means an area that is inundated or saturated by surface water or Groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

ARTICLE III -WATER RIGHTS OF THE TRIBES

The water rights of the Tribes quantified in Article III are composed of two parts: water rights whose basis is Federal law that are defined and referred to as the Tribal Water Right and those Water Rights Arising Under State Law identified in Article III.C.1.k.ii, III.C.1.l.ii, III.D.4, 5, and 6, and III.H.

A. Religious or Cultural Uses. The Tribal Water Right described in this Article III includes all traditional, religious, or cultural uses of water by members of the Confederated Salish and Kootenai Tribes within Montana. Individual exercises of traditional, religious, or cultural uses are exempt from the Registration process contained in the Law of Administration.

B. Abstracts of Water Right. Abstracts of water right appended to this Compact are a substantive element of this Compact. The language of the abstracts, including all informational remarks, shall control in the event of any inconsistency between the Compact and the abstracts of water right; provided however, that the Parties upon written mutual agreement may make technical corrections to the abstracts prior to the Parties submission to the Montana Water Court of the motion for entry of the Proposed Decree identified in Article VII.B. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

C. Basins 76L and 76 LJ and Flathead Indian Irrigation Project Irrigation Water Diversions from Basins 76F and 76N.

1. Quantification.

a. Flathead Indian Irrigation Project. The Tribes have the right to water that is supplied to the Flathead Indian Irrigation Project to be used for such purposes

in such volumes and flow rates and from such sources of supply as identified in the abstracts of water right attached hereto as Appendix 5. The FIIP will serve up to, but not more than 135,000 acres. The exercise of this portion of the Tribal Water Right shall be satisfied by meeting the RDA values for each RDA Area described in Appendix 3.2 as evaluated pursuant to Article IV.D.1.e, and is subject to Article IV.D through F.

The priority date for the portion of the Tribal Water Right used by the FIIP is July 16, 1855.

b. Existing Uses by the Tribes, their Members and Allottees.

i. The Tribal Water Right includes all Existing Uses by the Tribes, their members and Allottees that are not Water Rights Arising Under State Law and are not otherwise specifically quantified in other sections of this Article III.

ii. Water Rights Arising Under State Law held by the Tribes, their members and Allottees will be satisfied pursuant to their own terms as finally decreed by the Montana Water Court or permitted by the DNRC.

iii. For each Existing Use identified in Article III.C.1.b.i to be valid and enforceable, the Tribes, or each Tribal member or Allottee claiming such an Existing Use, shall complete the process for the registration of uses of the Tribal Water Right set forth in the Law of Administration. Such uses include but are not limited to irrigation, Stock Water, domestic, commercial, municipal and industrial purposes, as well as those historically irrigated allotments that are held for individuals in trust by the United States that are not served by the FIIP and that are identified on the map and table attached hereto as Appendix 6.

iv. Uses of the Tribal Water Right for which abstracts are appended to this Compact, including uses on the FIIP, are exempt from the registration requirement set forth in Article III.C.1.b.iii.

v. The priority date for water uses registered pursuant to Article III.C.1.b.iii and the Law of Administration is July 16, 1855.

c. Flathead System Compact Water. The Tribes have a direct flow water right from the Flathead River with the following elements:

Source of Water: Flathead River, Flathead Lake, and the South Fork of the Flathead River up to Hungry Horse Reservoir

Point of Diversion: From Flathead Lake or the Flathead River, either on or off of the Reservation

Purpose: Any beneficial use

Diversion Volume: 229,383 Acre-feet per year

Depletion Volume: 128,158 Acre-feet per year

Period of Diversion and Depletion: January 1 through December 31

i. As part of the Tribal Water Right quantified in this Article III.C.1.c, the Tribes shall be entitled to an allocation of 90,000 Acre-feet per year, as measured at the Hungry Horse Dam, of storage water in Hungry Horse Reservoir.

ii. This water right shall be used in a manner that ensures impacts associated with the exercise of this water right are no greater than those identified in model run: Natural Q + 90K of the United States Bureau of Reclamation's Final Flathead Basin Depletions Study (USBR, October 2012), attached hereto as Appendix 7. In the event that the impacts exceed those identified in model run: Natural Q + 90K of the United States Bureau of Reclamation's Final Flathead Basin Depletions Study, the use of the water right set forth in this Article III.C.1.c shall be reduced in such amounts as are necessary to immediately achieve impacts that are no greater than those

identified in model run: Natural Q + 90K of the United States Bureau of Reclamation's Final Flathead Basin Depletions Study.

iii. The releases of the stored water identified in Article III.C.1.c.i shall be limited in accordance with the "Biological Impact Evaluation and Operational Constraints for a proposed 90,000 Acre-foot withdrawal" (State of Montana, September 14, 2011) attached hereto as Appendix 8. The Parties upon mutual written agreement, and in conformance with other applicable provisions of law including but not limited to the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq. (ESA), may amend the Biological Impact Evaluation Constraints identified in the September 14, 2011 report. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

iv. The exercise of this water right shall conform with the minimum instream flow schedules, as measured at the USGS gaging station on the Flathead River at Columbia Falls (12363000) and the USGS gaging station on the Flathead River at Polson (12372000) as identified in Tables 3 through 6 of Appendix 7, as well as the minimum flow requirements set forth in Table 5 that must also be met downstream at the USGS gaging station on the Flathead River at Perma (123887000). The exercise of this water right shall also conform to the ramping rates, as measured below Kerr and Hungry Horse Dams, and identified in Tables 3 through 6 of Appendix 7. In the event that the minimum instream flow schedules or ramping rates are not met, the use of the water right set forth in this Article III.C.1.c shall be suspended until such time as those minimum instream flow schedules and ramping rates are achieved. The Parties upon mutual written agreement, and in conformance with applicable ESA and Federal Energy Regulatory Commission licensing requirements for the three previously identified sites, may amend the limitations for releases from Hungry Horse Reservoir that are required to conform with minimum instream flow and ramping rate schedules at these sites. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

v. The exercise of this water right shall also conform with the Flathead Lake filling criteria identified on page 12 of Appendix 7.

vi. The Tribes may use any amount of the stored water identified in Article III.C.1.c.i that is not necessary to be released each year pursuant to the provisions of Article III.C.1.c.ii through v, for any beneficial purpose, subject to the terms and conditions of this Compact.

vii. Use of the 90,000 Acre-feet of water from Hungry Horse Reservoir is subject to the approval of, and any terms and conditions specified by, Congress.

viii. The priority date for Flathead System Compact Water is July 16, 1855.

ix. Any development by the Tribes of this Flathead System Compact Water Right outside the boundaries of the Reservation shall be pursuant to Article IV.B.5.c.

x. The Parties agree that nothing in this Compact precludes the Tribes from leasing Flathead System Compact Water to FIIP irrigators.

xi. The abstract of water right for this Flathead System Compact Water Right is attached hereto as Appendix 9.

d. Instream Flow Rights on Reservation.

i. Natural Instream Flows. The Tribes have Instream Flow rights in the quantities and locations identified in the abstracts of water right attached hereto as Appendix 10.

ii. FIIP Instream Flows. The Tribes have Instream Flow rights in the quantities and locations identified in the abstracts of water right attached

hereto as Appendix 11. The exercise of this portion of the Tribal Water Right is subject to Article IV.C through F.

iii. Other Instream Flows. The Tribes have Instream Flow rights in the quantities and locations identified in the abstracts of water right attached hereto as Appendix 12. The Parties agree that a right identified in Appendix 12 shall only become enforceable on the date that an enforceable flow schedule for that right has been established pursuant to the process set forth in the Law of Administration, Section 2-1-115 of this Ordinance, for the development of such enforceable schedules.

iv. Interim Instream Flows. Until such time as the Instream Flow water rights set forth in Article III.C.1.d.ii become enforceable pursuant to Article IV.C, the Tribes shall be entitled to enforce the interim Instream Flows contained in Appendix 13 consistent with the provisions in Article IV.C and IV.E. The Tribes and the United States shall enforce these interim Instream Flows pursuant to Appendix 13 or existing practice as of December 31, 2014, and as described in the protocols in Appendix 14.

v. The priority date for the Instream Flow water rights set forth in this Article III.C.1.d is time immemorial.

e. Minimum Reservoir Pool Elevations in Flathead Indian Irrigation Project Reservoirs.

i. The Tribes have the right to water necessary to maintain Minimum Reservoir Pool Elevations for FIIP reservoirs in the quantities and locations set forth in the table and abstracts of water right attached hereto as Appendix 15. The exercise of this portion of the Tribal Water Right is subject to Article IV.C and E and superseding Federal law allowing for regulation of reservoir elevations.

ii. The Minimum Reservoir Pool Elevations will become enforceable according to the schedule attached hereto as Appendix 3.4.

iii. The priority date for the water rights set forth in this Article III.C.1.e is July 16, 1855.

iv. Until such time as the Minimum Reservoir Pool Elevations set forth in Article III.C.1.e become enforceable pursuant to Article IV.C, the Tribes shall be entitled to enforce those interim reservoir pool elevations identified in Appendix 13. The Tribes and the United States shall enforce these interim reservoir pool elevations only pursuant to Appendix 13 or existing practice as of December 31, 2014, and subject to superseding Federal law allowing for regulation of reservoir elevations.

f. Wetland Water Right. The Tribes have the right to all naturally occurring water necessary to maintain the Wetlands identified in the abstracts of water right attached hereto as Appendix 16. The priority date for the Wetland water rights set forth in this Article III.C.1.f is time immemorial.

g. High Mountain Lakes Water Right. The Tribes have the right to all naturally occurring water necessary to maintain the High Mountain Lakes identified in the abstracts of water right attached hereto as Appendix 17. The priority date for the High Mountain Lakes water rights set forth in this Article III.C.1.g is time immemorial.

h. Flathead Lake. The Tribes have the right to all naturally occurring water necessary to maintain the level of the entirety of Flathead Lake at an elevation of 2,883 feet as described in the abstract of water right attached hereto as Appendix 18. The priority date for the Flathead Lake water right set forth in this Article III.C.1.h is time immemorial.

i. Boulder Creek Hydroelectric Project. The Tribes have the right to water necessary to operate the Boulder Creek Hydroelectric Project as identified in the abstracts of water right attached hereto as Appendix 19. The priority date for the Boulder Creek Hydroelectric Project water right set forth in this Article III.C.1.i is July 16, 1855.

j. Hellroaring Hydroelectric Project. The Tribes have the right to water necessary to operate the Hellroaring Hydroelectric Project as identified in the abstracts of water right attached hereto as Appendix 20. The priority date for the Hellroaring Hydroelectric Project water right set forth in this Article III.C.1.j is July 16, 1855.

k. Wetlands Appurtenant to Lands Owned by Montana Fish Wildlife and Parks.

i. The Tribes and Montana Fish Wildlife and Parks (MFWP) have the right to all naturally occurring water necessary to maintain the Wetlands identified in the abstracts of water right attached hereto as Appendix 21. The priority date for Wetland water rights appurtenant to lands owned by MFWP is time immemorial.

ii. Upon the Effective Date, the Tribes shall be added as a co-owner with MFWP of water right number 76L 153988-00, the abstract of which is attached hereto as Appendix 22. MFWP shall make reasonable efforts to defend this right in the Montana general stream adjudication. The Tribes have the right but not the duty to participate in the defense of this right in the Montana general stream adjudication.

iii. The Tribes shall be added in an expeditious manner as a co-owner to any water right with a fish or fish and wildlife purpose that is appurtenant to land acquired by MFWP on the Reservation after the Effective Date.

iv. The Tribes shall be added in an expeditious manner as a co-owner to any Wetlands water right acquired by MFWP pursuant to the Law of Administration after the Effective Date.

v. MFWP shall be the sole entity entitled to manage the water rights identified in Article III.C.1.k. The recognition of these co-owned water rights does not confer on the Tribes any authority over the management of the MFWP-owned lands to which these water rights are appurtenant.

vi. MFWP shall meet and confer with the Tribes on a biennial basis, or on such other timeframe as the Tribes and MFWP may mutually agree, to discuss the exercise of these water rights. Such modifications to the meeting schedule are pursuant to, and shall not be deemed an amendment of, this Compact.

l. Wetlands Appurtenant to Lands Owned by Department of Interior Fish and Wildlife Service.

i. The Tribes and the Department of the Interior's Fish and Wildlife Service (FWS) have the right to all naturally occurring water necessary to maintain the Wetlands identified in the abstracts of water right attached hereto as Appendix 23. The priority date for Wetland water rights appurtenant to lands owned by FWS is time immemorial.

ii. Upon the Effective Date, the Tribes shall be added as a co-owner with FWS of water right numbers 76L 99338 00, 76L 99339 00, and 76L 99340 00, the abstracts of which are attached hereto as Appendix 24. FWS shall make reasonable efforts to defend these rights in the Montana general stream adjudication. The Tribes have the right but not the duty to participate in the defense of these rights in the Montana general stream adjudication.

iii. The Tribes shall be added in an expeditious manner as a co-owner to any water right with a fish or fish and wildlife purpose that is appurtenant to land acquired by FWS on the Reservation after the Effective Date.

iv. The Tribes shall be added in an expeditious manner as a co-owner to any Wetlands water right acquired by FWS pursuant to the Law of Administration, after the Effective Date.

v. FWS shall be the sole entity entitled to manage the water rights identified in this Article III.C.1.l. The recognition of these co-owned water rights does not confer on the Tribes any authority over the management of the FWS-owned lands to which these water rights are appurtenant.

vi. FWS shall meet and confer with the Tribes on a biennial basis, or on such other timeframe as the Tribes and FWS may mutually agree, to discuss the exercise of these water rights. Such modifications to the meeting schedule are pursuant to, and shall not be deemed an amendment of, this Compact.

D. Instream Flow Water Rights Off of the Reservation.

1. Mainstem Instream Flow Right in the Kootenai River (Basin 76D). The Tribes have an Instream Flow water right for the mainstem of the Kootenai River for the reach and with the associated flow rates set forth in the abstract of water right attached hereto as Appendix 25. The measurement point for this water right is USGS streamflow gage #12305000 located at Leonia, Idaho.

a. The priority date for this water right is time immemorial.

b. The period of use of this water right is January 1 to December 31 of each year.

c. The purpose of this water right is for the maintenance and enhancement of fish habitat to benefit the instream fishery. This right shall not be changed to any other or additional purpose, changed to consumptive use, or transferred to different ownership.

d. The point of diversion and place of use for this water right is instream. This water right shall not be exercised in conjunction with any artificial diversion.

e. The ability to enforce this right shall be suspended so long as Libby Dam remains in existence and the Army Corps of Engineers' operations of that dam are conducted consistently with the 2008 Federal Columbia River Power System Biological Opinion, the 2010 updated Biological Opinion, and the 2014 Supplemental Federal Columbia River Power System Biological Opinion, specifically as described in Reasonable and Prudent Alternative Action (RPA) No. 4 (Storage Project Operations), Table No. 1 (Libby Dam), including the Northwest Power and Conservation Council's 2003 mainstem amendments to the Columbia River Basin Fish and Wildlife Program, or any subsequent Biological Opinion(s) governing the same RPAs and Operations.

f. In the event of changes to the U.S. Army Corps of Engineers' (Corps) responsibilities under the ESA, such as the delisting of resident and anadromous fish species, that no longer require the Corps to operate Libby Dam pursuant to ESA section 7 biological opinions or other substantive ESA requirements, the United States, acting through the Corps, the Tribes, and the State shall establish written protocols and understandings on meeting and enforcing the Tribes' mainstem Instream Flow right in the Kootenai River while also ensuring that the Corps' operations of Libby Dam meet all Federal statutory and regulatory requirements and obligations. Provided however, that any such enforcement protocol shall not alter the limitations on Call set forth in

Article III.D.1.g. The establishment of such protocols and understandings are pursuant to, and shall not be deemed an amendment of, this Compact.

g. Should the suspension on enforcement set forth in Article III.D.1.e be lifted due to the removal of Libby Dam, this water right may be exercised to make a Call only against junior users whose point of diversion is from the mainstem of the Kootenai River and not its tributaries, the purpose of whose rights is irrigation and whose source of supply is surface water, or against junior users the purpose of whose rights is irrigation, whose source of supply is Groundwater that is connected to the mainstem of the Kootenai River, and whose flow rate is greater than 100 gallons per minute.

h. Call may be made only when the average daily flow drops below the enforceable level for the previous 24-hour period.

2. Mainstem Instream Flow Right in the Swan River (Basin 76K). The Tribes have an Instream Flow water right for the reach of the mainstem of the Swan River with the associated flow rates set forth in the abstract of water right attached hereto as Appendix 26. The measurement point for this water right is USGS streamflow gage #12370000 located immediately below Swan Lake near Big Fork, Montana.

a. The priority date for this water right is time immemorial.

b. The period of use of this water right is January 1 to December 31 of each year.

c. The purpose of this water right is for the maintenance and enhancement of fish habitat to benefit the instream fishery. This right shall not be changed to any other or additional purpose, changed to consumptive use, or transferred to different ownership.

d. The point of diversion and place of use for this water right is instream. This water right shall not be exercised in conjunction with any artificial diversion.

e. The Tribes, and/or the United States on behalf of the Tribes, shall be entitled to make a Call to enforce this water right only against junior users the purpose of whose rights is irrigation and whose source of supply is surface water, or against junior users the purpose of whose rights is irrigation, whose source of supply is Groundwater connected to surface sources in Basin 76K and whose flow rate is greater than 100 gallons per minute.

f. Call may be made only when the average daily flow drops below the enforceable level for the previous 24-hour period.

3. Mainstem Instream Flow Right in the Lower Clark Fork River (Basins 76M and 76N). The Tribes have a 5000 cfs Instream Flow water right for the reach of the mainstem of the Clark Fork River as set forth in the abstract of water right attached hereto as Appendix 27. The measurement point for this water right is USGS streamflow gage #12391950 located immediately below Cabinet Gorge Dam in Idaho.

a. The priority date for this water right is time immemorial.

b. The period of use of this water right is January 1 to December 31 of each year.

c. The purpose of this water right is for the maintenance and enhancement of fish habitat to benefit the instream fishery. This right shall not be changed to any other or additional purpose, changed to consumptive use, or transferred to different ownership.

d. The point of diversion and place of use for this water right is instream. This water right shall not be exercised in conjunction with any artificial diversion.

e. The Tribes, and/or the United States on behalf of the Tribes, shall be entitled to make a Call to enforce this water right only against junior users whose point of diversion is from the mainstem of the Clark Fork River and not its tributaries, the purpose of whose rights is irrigation and whose source of supply is surface water, or against junior users the purpose of whose rights is irrigation, whose source of supply is Groundwater connected to the mainstem of the Clark Fork River and whose flow rate is greater than 100 gallons per minute.

f. Call may be made only when the average daily flow drops below the enforceable level for the previous 24-hour period.

g. For so long as the Cabinet Gorge and Noxon Dams remain in existence, the enforceable level of this right is a flow rate equal to the lesser of 5000 cfs or the minimum flow level established by the FERC as a condition on the license for the Cabinet Gorge and Noxon Dams as that license condition may be modified over time.

4. Co-ownership of Instream and Public Recreation Water Rights Held by MFWP.

a. Upon the Effective Date, the Tribes shall be added as a co-owner with MFWP of the Water Rights Arising Under State Law held by MFWP for Instream Flow and recreation purposes that are identified on the tables attached hereto as Appendix 28 and Appendix 29. Nothing in this co-ownership changes any of the other elements of these Water Rights Arising Under State Law, including their priority dates or flow rates.

i. The Water Rights Arising Under State Law identified in Appendix 28 shall be included as part of the proposed decree to be filed with the Montana Water Court pursuant to Article VII.B.1.

ii. The Water Rights Arising Under State Law identified in Appendix 29 shall proceed through the Montana general stream adjudication as though they were not included in this Compact. MFWP shall make reasonable efforts to defend each of these rights identified in Appendix 29 in the Montana general stream adjudication. The Tribes have the right but not the duty to participate in the defense of these rights in the Montana general stream adjudication.

b. As co-owners, the Tribes and MFWP shall meet and confer on a biennial basis, or on such other timeframe as the Tribes and MFWP may mutually agree, to discuss the exercise of the rights identified in Article III.D.4.a, with a goal of establishing a joint plan for the exercise of these rights. Notwithstanding this planning process, the Tribes and MFWP each retain(s) the unilateral right to exercise each water right identified in Article III.D.4.a as each deem(s) appropriate, but neither the Tribes nor MFWP has any affirmative duty to take any particular action in regard to the exercise of any of these rights.

5. Co-ownership of Water Right Number 76M 94404-00 (Milltown Dam) in Basin 76G (Upper Clark Fork).

a. Upon the date the ratification of this Compact by the Montana Legislature becomes effective under State law, Water Right Arising Under State Law number 76M 94404-00 is changed as follows: the right is split into two separate active and enforceable Water Rights Arising Under State Law, 76M 94404-01 and 76M 94404-02, and the original water right elements are changed to support the maintenance and enhancement of fish habitat and take the form of two enforceable hydrographs. The elements of the changed and split water right

are set forth in the two water rights abstracts attached hereto as Appendix 30. The measurement point for 76M 94404-01 is the USGS gage #12334550 at Turah, Montana, and the measurement point for 76M 94404-02 is the USGS gage #1234000 at Bonner, Montana.

i. The period of use of these water rights is January 1 to December 31 of each year.

ii. The point of diversion and place of use for these water rights is instream.

iii. These water rights shall not be exercised in conjunction with any artificial diversion.

iv. MFWP, and the Tribes after they become co-owners, and subject to the limitation on enforcement set forth in Article III.D.5.c, shall be entitled to make a Call to enforce these water rights only against junior users the purpose of whose rights is irrigation and whose source of supply is surface water, or against junior users the purpose of whose rights is irrigation, whose source of supply is Groundwater and whose flow rate is greater than 100 gallons per minute.

v. The enforceable levels of these water rights are identified in the table attached hereto as Appendix 31. The minimum enforceable level of this right is 700 cfs at the location of USGS gage #1234000 at Bonner, and 500 cfs at the location of USGS gage #12334550 at Turah.

vi. Call may be initiated on the day following a five-consecutive-day-period in which four out of five average daily river flows fall below their respective daily enforceable hydrograph values. Call may persist until such time as two average daily flows of the previous five-consecutive-day-period are in excess of their respective enforceable hydrograph values.

b. Upon the Effective Date, the Tribes shall be a co-owner with MFWP of these water rights. As co-owners, the Tribes and MFWP shall meet and confer on a biennial basis, or on such other timeframe as the Tribes and MFWP may mutually agree to, regarding the exercise of these rights, with a goal of establishing a joint plan for the exercise of these rights. The establishment of such a plan is pursuant to, and shall not be deemed an amendment of, this Compact. Notwithstanding this planning process, the Tribes and MFWP each retains the unilateral right to exercise these water rights as each deems appropriate, but neither the Tribes nor MFWP has any affirmative duty to take any particular action in regard to the exercise of these rights.

c. The ability to enforce these rights shall be suspended for a period of 10 years from the date the ratification of this Compact by the Montana Legislature becomes effective under State law. During and after this period, the Tribes and MFWP shall engage with other stakeholders in the Upper Clark Fork Basin on water management subjects including, but not limited to, drought planning and the exercise of these water rights in conjunction with the other water rights in the Upper Clark Fork Basin.

d. For any analysis of the legal availability of water in the Upper Clark Fork Basin, these rights shall be considered to have a combined year-round flow rate of 2,000 cfs as measured at the location of USGS gauge #12340500 below the confluence of the Blackfoot and Clark Fork Rivers.

e. No owner of these water rights, acting independently or jointly, shall be entitled to lease, sell or change the purpose of these water rights.

f. The Water Rights Arising Under State Law identified in this Article III.D.5 shall be finally decreed as part of the decree of this Compact that will be proposed to the Montana Water Court pursuant to Article VII.B.1.

6. Contract Rights to Stored Water Held by MFWP in Basin 76H (Bitterroot).

a. MFWP is a party to two contracts for the delivery of stored water from Painted Rocks Reservoir: MFWP Water Purchase Contract Painted Rocks, between MFWP and DNRC, July 12, 2004 (attached hereto as Appendix 32); and Water Purchase Contract, March 5, 1958, as amended on March 5, 1958 (attached hereto as Appendix 33). In the event that MFWP obtains an ownership interest in any water rights pursuant to these contracts or obtains an ownership interest in any water rights pursuant to any future contract for the delivery of water from Painted Rocks Reservoir, MFWP shall expeditiously take all steps necessary to add the Tribes as a co-owner of said water rights.

b. MFWP is a party to a contract for the delivery of stored water from Lake Como: Agreement Between the Bitterroot Irrigation District and the United States Department of the Interior, Bureau of Reclamation for the Operation of the Enlarged Storage Pool at Lake Como, July, 1994 (attached hereto as Appendix 34). In the event that MFWP obtains an ownership interest in any water rights pursuant to this contract, or obtains an ownership interest in any water rights pursuant to any future contract for delivery of water from Lake Como, MFWP shall expeditiously take all steps necessary to add the Tribes as a co-owner of said water rights.

c. MFWP shall manage the Painted Rocks and Como contract rights, in a prudent, biologically based and environmentally sound manner, and within the terms and conditions of these contracts. MFWP will manage in the same manner any future contracts for the delivery of water from Painted Rocks or Lake Como to which MFWP becomes a party. The Tribes are an intended beneficiary of MFWP's management of these contracts, and have the right to challenge MFWP's management decisions in a Court of Competent Jurisdiction.

d. MFWP shall meet and confer with the Tribes on a biennial basis, or on such other timeframe as the Tribes and MFWP may mutually agree to, regarding the management of these contract rights. Such modifications to the meeting schedule are pursuant to, and shall not be deemed an amendment of, this Compact. If the Tribes become co-owners of any water right pursuant to this Article III.D.6 of the Compact, the Tribes and MFWP shall each retain the independent right to exercise each water right as each deems appropriate. Neither the Tribes nor MFWP has any affirmative duty to take any particular action in regard to the exercise of any of such rights. The Tribes do not assume any liability arising out of or resulting from any of the contracts identified in this Article III.D.6 pertaining to co-ownership of rights to stored water in Basin 76H.

7. Instream Flow Right on the North Fork of Placid Creek (Basin 76F). The Tribes have an Instream Flow water right for the upper reach of the North Fork of Placid Creek with the associated flow rates set forth in the abstract of water right attached hereto as Appendix 35. The measurement point for this water right shall be within the main channel of the North Fork of Placid Creek, below the North Fork Placid Creek FIIP Diversion located within the SE 1/4 of the NW 1/4 of the SE 1/4 of Section 29 in Township 17 North Range 16 West.

a. The priority date for this water right is time immemorial.

b. The period of use of this water right is January 1 to December 31 of each year.

c. The purpose of this water right is for the maintenance and enhancement of fish habitat to benefit the instream fishery. This right shall not be changed to any other or additional purpose, changed to consumptive use, or transferred to different ownership.

d. The point of diversion and place of use for this water right is instream. This water right shall not be exercised in conjunction with any artificial diversion.

e. The Tribes, and/or the United States on behalf of the Tribes, shall be entitled to make a Call to enforce this water right only against junior users the purpose of whose rights is irrigation and whose source of supply is surface water of Placid Creek, or against junior users the purpose of whose rights is irrigation, whose source of supply is Groundwater connected to Placid Creek and whose flow rate is greater than 100 gallons per minute.

f. Call may be made only when the average daily flow drops below the enforceable level for the previous 24-hour period.

8. Instream Flow Rights on Kootenai River Tributaries (Basin 76D). The Tribes have Instream Flow water rights for the reaches of the Kootenai River tributaries Big Creek, Boulder Creek, Steep Creek and Sutton Creek, with the associated flow rates set forth in the abstracts of water right attached hereto as Appendix 36.

a. The priority date for this water right is time immemorial.

b. The period of use of this water right is January 1 to December 31 of each year.

c. The purpose of this water right is for the maintenance and enhancement of fish habitat to benefit the instream fishery. This right shall not be changed to any other or additional purpose, changed to consumptive use, or transferred to different ownership.

d. The point of diversion and place of use for this water right is instream. This water right shall not be exercised in conjunction with any artificial diversion.

e. Water rights held by the United States Forest Service pursuant to the United States Forest Service-Montana Water Rights Compact, 85-20-1401, MCA, shall not be subject to Call by the Tribes and/or the United States on behalf of the Tribes.

f. The recognition of the Instream Flow water rights in this Article III.D.8 does not confer on the Tribes any authority over the management of National Forest System lands within Basin 76D, or any claim to ownership or other rights in that land. With the exception of future diversionary uses by the United States on National Forest System lands in excess of the Forest Service's reserved rights identified in Article III.D.8.e, the Tribes hold the United States harmless for delivery of water or maintenance of flows to meet this Instream Flow water right in Basin 76D.

E. Period of Use. The period of use of the Tribal Water Right set forth in this Article III shall be January 1 to December 31 of each year, provided however, that any portion of that water right that is dedicated to seasonal use, including irrigation use, shall have a period of use as set forth in the abstracts attached hereto as Appendix 5 or as set forth in the registration of such right pursuant to the Law of Administration, as applicable.

F. Points and Means of Diversion. The points and means of diversion for use of the Tribal Water Right set forth in this Article III are as set forth in the abstracts of water rights attached to this Compact or as may be provided for under the Law of Administration.

G. Call Protection.

1. Non-Irrigators. The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact, and the United

States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any Water Right Arising Under State Law whose purpose(s) do(es) not include irrigation.

2. Groundwater Irrigators with Flow Rates Less Than or Equal to 100 Gallons Per Minute. The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact and the United States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any Water Right Arising Under State Law whose purpose is irrigation and whose source of supply is Groundwater and whose flow rate is less than or equal to 100 gallons per minute.

3. Irrigators Within the FIIP Influence Area.

a. The Tribes, the United States, and the Project Operator, agree to relinquish their right to exercise the Tribal Water Right to make a Call against that portion of any Water Right Arising Under State Law identified in Article III.G.3.b that is equal to the quantity of water established as the annual FIIP quota for the current irrigation season, or an equivalent farm delivery amount within the FIIP as implemented by the Project Operator within the applicable RDA Area, or the quantity allowed under a claim decreed by the Montana Water Court or water right granted by the DNRC (an Alternate Value), whichever is less, whose owner enters into a consensual agreement as described in this Article III.G.3.

b. Water Rights Arising Under State Law whose owners are eligible to enter into consensual agreements as described in this Article III.G.3 are those rights:

i. whose purpose is irrigation;

ii. whose point(s) of diversion or place(s) of use are within the FIIP Influence Area; and

iii. whose source of supply is surface water; or

iv. whose source of supply is Groundwater and whose flow rate is greater than 100 gallons per minute.

c. The Tribes, the United States, and the Project Operator, agree to enter into the consensual agreement described in this Article III.G.3 with every owner of a Water Right Arising Under State Law described in Article III.G.3.b who wishes to enter into such an agreement. The following conditions shall apply to any such consensual agreement:

i. the owner of a Water Right Arising Under State Law that meets the criteria described in Article III.G.3.b shall measure all diversions, report the measured amount of those diversions to the Project Operator, agree to divert no more water each year than the lesser of the quantity established as the annual FIIP quota or an Alternate Value, and shall not expand water use beyond the terms of the agreement;

ii. the owner of a Water Right Arising Under State Law does not acquire any entitlement to any delivery or diversion of water from the FIIP, whether the water is stored or run of the river, by entering into a consensual agreement as described in this Article III.G.3;

iii. irrigation use pursuant to any Water Right Arising Under State Law whose owner enters into a consensual agreement as set forth in this Article III.G.3 shall be limited to the irrigation season identified annually by the FIIP and to such period of use limitation as may apply to FIIP irrigators;

iv. the method and frequency of measurement of the diversion must be described and occur at a reasonable level of accuracy and frequency to

demonstrate that the diversion does not exceed the lesser of the annual FIIP quota for a given irrigation season or an Alternate Value, and;

v. the agreement is permanent and is binding on the heirs and assigns of the owner of each Water Right Arising Under State Law who enters into such agreement.

d. The entering into a consensual agreement as set forth in this subsection (3) does not relieve the owner of any claim to a Water Right Arising Under State Law that is at issue in the Montana general stream adjudication from the obligation of prosecuting that water right claim through the Montana general stream adjudication.

e. If a consensual agreement is entered into among the Tribes, United States, the Project Operator and the owner of a Water Right Arising Under State Law described in Article III.G.3.b prior to the issuance of the final decree for Montana Water Court Basin 76L and 76 LJ, as applicable, that agreement shall terminate as a matter of law if the claimed Water Right is terminated as a result of proceedings conducted in the Montana general stream adjudication.

f. If a consensual agreement is entered into among the Tribes, the United States, the Project Operator, and the owner of a Water Right Arising Under State Law described in Article III.G.3.b prior to the issuance of the final decree for Montana Water Court Basin 76L and 76 LJ, as applicable, and such owner has a claim in the Montana general stream adjudication that is ultimately decreed a quantity of water for that claim less than the quantity established in the agreement, the consensual agreement shall protect only the lesser amount of water.

g. If the owner of a Water Right Arising Under State Law described in Article III.G.3.b ceases to use that portion of that water right in excess of the lesser of the annual FIIP quota for a given irrigation season, or an Alternate Value, pursuant to a consensual agreement as set forth in Article III.G.3:

i. that nonuse does not represent an intent by the owner of that water right to wholly or partially abandon that water right or to not comply with the terms and conditions of that right; and

ii. the period of nonuse may not create or may not be added to any previous period of nonuse to create a presumption of abandonment.

h. Any use of a Water Right Arising Under State Law subject to a consensual agreement described in this Article III.G.3 exceeding the volume of water specified in the consensual agreement shall be subject to Call by the Tribes, the United States, or the Project Operator for that amount of water in excess of the terms of the consensual agreement.

i. A Person who has both an entitlement to the delivery of water from the FIIP and a Water Right Arising Under State Law to serve the same acreage may only protect from Call, by entering into a consensual agreement pursuant to this Article III.G.3, a total quantity of water equal to the lesser of the annual FIIP quota for a given irrigation season, or an Alternate Value, for each acre served, irrespective of whether the water applied to each acre is pursuant to that Person's FIIP delivery right or that Person's Water Right Arising Under State Law.

4. Water Rights Upstream of the Reservation (Basins 76I, 76J, and 76LJ). The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact, and the United States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any water

right located upstream of the Flathead Reservation in Basins 76I, 76J, and 76LJ, except for those Water Rights Arising Under State Law:

a. Whose purpose is irrigation and whose source of supply is surface water, and whose point of diversion is:

i. the mainstem of the Flathead River, including Flathead Lake;

ii. the North Fork of the Flathead River;

iii. the Middle Fork of the Flathead River; or

iv. the South Fork of the Flathead River.

b. Whose purpose is irrigation, whose source of supply is Groundwater connected to one of the sources identified in Article III.G.4.a, and whose flow rate is greater than 100 gallons per minute.

c. The Tribes and the United States agree that the Tribal Water Right recognized in the Compact may not be exercised to make Call against any Water Right Arising Under State Law upstream of the Flathead Reservation and located on a tributary to the Flathead River not identified in Article III.G.4.a.

5. Water Rights on the Little Bitterroot River Outside the Reservation (Basin 76L). The Tribes, on behalf of themselves and the users of any portion of the Tribal Water Right set forth in this Compact, and the United States agree to relinquish their right to exercise the Tribal Water Right to make a Call against any Water Right Arising Under State Law whose point of diversion is outside the Flathead Reservation and whose source of supply is the Little Bitterroot River or its tributaries.

6. Any Water Right Arising Under State Law the purpose of which is irrigation and that is susceptible to Call by the Tribes pursuant to Article III.D.1.g, III.D.2.e, III.D.3.e, III.D.5.a.iv, III.D.7.e, III.G.4.a, or III.G.4.b whose purpose is changed after the Effective Date to something other than irrigation shall remain susceptible to Call pursuant to the terms and conditions of this Compact as though the purpose of the Water Right Arising Under State Law was still irrigation.

H. Water Rights Arising Under State Law Appurtenant to Lands Acquired by the Tribes. For lands acquired by the Tribes within the Reservation, the Tribes have the right to any Water Right Arising Under State Law acquired as an appurtenance to the land. Starting upon the Effective Date of the Compact, the Tribes may file a Trust Transfer form with the Board for any lands acquired by the Tribes with appurtenant Water Rights Arising Under State Law that have been taken into trust by the United States on behalf of the Tribes, as provided in the Law of Administration and the water right appurtenant to the land shall be transferred to the Tribal Water Right quantified in this Compact with a priority date of July 16, 1855, provided that the Tribes shall continue to use the acquired water right as it was historically used or may change the use of the acquired water right pursuant to the provisions for change of use set forth in Article IV.B.4 and the Law of Administration. Such transfer does not shield the underlying right from abandonment based on acts or omissions of the holder of that water right prior to its acquisition by the Tribes.

ARTICLE IV - IMPLEMENTATION OF COMPACT

A. Trust Status of Tribal Water Right. The Tribal Water Right shall be held in trust by the United States for the benefit of the Tribes, their members and Allottees.

B. Use of Tribal Water Right.

1. Persons Entitled to Use the Tribal Water Right. The Tribal Water Right may be used by the Tribes, their members, Allottees, or their lessees or assigns. FIIP customers who have assessed land within the FIIP who are in compliance with the applicable BIA rules and guidelines are entitled to have delivered an equitable share of the FIIP Water Use Right as provided by Article IV.D.2.

2. Effect of Non-Use of the Tribal Water Right. Non-use of all or any portion of the Tribal Water Right described in Article III shall not constitute a relinquishment, forfeiture, or abandonment of such right.

3. Review of Registration of Existing Uses of the Tribal Water Right.

a. Within five (5) years after the Effective Date, the Board shall provide the DNRC with a report, in a form materially consistent with that of abstracts of water rights decreed by the Montana Water Court, of the Tribal Water Right registered pursuant to the Law of Administration as being in existence as of the Effective Date.

b. Within six (6) months after receipt of the report, the DNRC must agree, agree in part, or disagree with the report. If the DNRC takes no action by the end of the six-month period after the report is received, the report shall be deemed accepted. If the DNRC agrees in part or disagrees with the report, the State, the Tribes, and the United States shall meet within ninety (90) days of issuance of the DNRC's notice of disagreement in an effort to resolve the issue(s) giving rise to the disagreement. If, after meeting and conferring, the State, the Tribes, and the United States are still unable to come to agreement on the list of Existing Uses, all disagreements over the contents of the list must be brought to the Water Management Board for resolution of the dispute under Article IV.I.4.c within 180 days of the issuance of the DNRC's notice of disagreement.

4. Changes in Use of the Tribal Water Right. Any user of a portion of the Tribal Water Right who proposes a change of such use must seek authorization to change the use of that portion of the right. Such applications for authorization to change a use shall be heard and decided by the Board pursuant to Article IV.I.4.b of the Compact and the Law of Administration, provided that the Board may not consider any change application of Flathead System Compact Water unless the applicant has secured the written consent of the Tribal Council to apply for a Change in Use authorization.

5. New Development of the Tribal Water Right.

a. The Tribes, or any Person with authorization from the Tribes, may develop a new use of the Tribal Water Right on the Reservation after the Effective Date. Such development may only proceed upon the issuance of an Appropriation Right for the New Development by the Board pursuant to Article IV.I.4.a and the Law of Administration.

b. The Tribes, or any Person with authorization from the Tribes, may develop a new use of the Flathead System Compact Water Right set forth in Article III.C.1.c off the Reservation after the Effective Date, but only after complying with the provisions of Article IV.B.5.c.

c. Any New Development by the Tribes of a portion of the Tribes' Flathead System Compact Water Right off the Reservation shall be treated as a change in use. The DNRC shall process each change application pursuant to the provisions of 85-2-302, 85-2-307 through 85-2-310, and 85-2-314, MCA. Prior to developing Flathead System Compact Water for beneficial use off the Reservation, the Tribes must comply with the provisions of subsections (1) through (3) and (8) through (17) of 85-2-402, MCA, as those provisions read on December 31, 2014.

d. In the event that, after the date the ratification of the Compact by the Montana Legislature takes effect under State law, the Montana Legislature substantively amends or repeals any of the sections identified in Article IV.B.5.c, the Tribes and the DNRC shall meet no later than 60 days after the effective date of the State legislative action amending or repealing to determine if they can agree whether the provisions of State law set forth in Article IV.B.5.c or the new provisions of State law shall govern the process for off-Reservation development of new uses of the Flathead System Compact Water Right set forth in Article III.C.1.c. In the event that the Tribes and the DNRC are unable to agree, the provisions of State law identified in Article IV.B.5.c shall remain in effect. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact

e. If the Tribes' use of Flathead System Compact Water off the Reservation involves diversion works or facilities for the transport of water located off the Reservation, the Tribes shall apply for and obtain all permits, certificates, variances and other authorizations required by State laws regulating, conditioning or permitting the siting, construction, operation, alteration or use of any equipment, device, facility or associated facility proposed to use or transport water, prior to exercising a use of the Flathead System Compact Water Right off the Reservation.

6. Lease of the Tribal Water Right.

a. Lease of the Tribal Water Right generally.

i. Pursuant to the terms and conditions of this Compact, the Tribes may Lease, for use on or off the Reservation, any portion of the Tribal Water Right set forth in Article III.C.1.a, b, i, and j; provided, that either the Tribes or its assignee, on behalf of the Tribes, first comply with the procedures for changing the use of water rights set forth in subsections iii and iv of this Article IV.B.6.a, as applicable.

ii. The Tribes may make or authorize a Lease of the Tribal Water Right for use within or outside the Reservation; provided that, any Lease shall be for a term not to exceed 99 years, and may include provisions authorizing renewal for an additional term not to exceed 99 years. The off-Reservation use of any portion of the Tribal Water Right is limited to a place of use within the Flathead or Clark Fork River Basins in Montana.

iii. A Lease of the Tribal Water Right shall not adversely affect a Water Right Arising Under State Law with a priority date before the date of the Lease or an Appropriation Right issued pursuant to this Compact with a priority date before the date of the Lease. Uses of the Tribal Water Right being exercised prior to the date of the Lease shall not be adversely affected by a Lease of the Tribal Water Right, except that the Tribes may allow uses of the Tribal Water Right on Tribally owned land to be adversely affected by declining to object to the Change in Use application associated with the Lease.

1. If the Lease is for use on the Reservation, the determination of adverse effect shall be made by the Water Management Board pursuant to the process set forth regarding applications for Change in Use authorizations under the Law of Administration.

2. If the Lease is for use off the Reservation, the Lease shall be treated as a change in use. The DNRC shall process each change application pursuant to the provisions of 85-2-302, 85-2-307 through 85-2-310, and 85-2-314, MCA. Prior to the lessee putting leased water to beneficial use, the Tribes or their assignee, on behalf of the Tribes, must comply with the following provisions of State law as those provisions read on December 31, 2014:

a. Subsections (1) through (3) and (8) through (17) of 85-2-402, MCA;

b. Subsections (1) through (8) of 85-2-407, MCA, provided, that the term of any such Lease may be for up to 99 years, and the DNRC may approve the renewal of such a Lease for a period of up to 99 years; and

c. 85-2-408, MCA, as limited by the provisions of Article IV.B.6.a.iii.2.a.

iv. In the event that, after the date the ratification of the Compact by the Montana Legislature takes effect under State law, the Montana Legislature substantively amends or repeals any of the sections identified in Article IV.B.6.a.iii.2, the Tribes and the DNRC shall meet, no later than 60 days after the effective date of the State legislative action amending or repealing, to determine if they can agree whether the provisions set forth in Article IV.B.6.a.iii.2 or the new provisions of State law shall govern the process for off-Reservation Leases under this Compact. In the event that the Tribes and the DNRC are unable to agree, the provisions of Article IV.B.6.a.iii.2 shall remain in effect. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

v. The Tribes or any Person using diversion works or facilities for the transportation of water located off the Reservation in connection with a use of the Tribal Water Right shall apply for and obtain all permits, certificates, variances and other authorizations required by State laws regulating, conditioning or permitting the siting, construction, operation, alteration or use of any equipment, device, or facility proposed to use or transport water, prior to exercising a use of the Tribal Water Right off the Reservation.

b. Lease of the Tribal Water Right by an Individual Indian Owner.

i. An Individual Indian Owner may enter into a Lease to authorize a Person or Persons to use the Individual Indian Owner's allocated portion of the Tribal Water Right on the Reservation.

ii. If the lessee intends to put the water to beneficial use in a manner different than how the Individual Indian Owner had been using the water prior to the date of the Lease, the Individual Indian Owner or the lessee must comply with the provisions of the Law of Administration pertaining to securing Change in Use authorizations from the Water Management Board before the use of water may be changed.

iii. Any Lease entered into pursuant to subsection b of this section may be for a term not to exceed 25 years, and may include provisions authorizing renewal for an additional term not to exceed 25 years.

iv. A Lease of the Tribal Water Right by an Individual Indian Owner shall not adversely affect a Water Right Arising Under State Law with a priority date before the date of the Lease or an Appropriation Right issued pursuant to this Compact with a priority date before the date of the Lease. Uses of the Tribal Water Right being exercised prior to the date of the Lease shall not be adversely affected by a Lease of the Tribal Water Right by an Individual Indian Owner, except that the Tribes may allow uses of the Tribal Water Right on Tribally owned land to be adversely affected by declining to object to the Change in Use application associated with the Lease.

c. Lease of the Flathead System Compact Water Right.

i. Pursuant to the terms and conditions of this Compact, the Tribes may Lease Flathead System Compact Water for use on or off the Reservation, provided that either the Tribes or their lessee comply with the Law of Administration and the relevant provisions of this section, as applicable.

ii. The Tribes shall make available Flathead System Compact Water for short-term Lease within the FIIP or the FIIP Influence Area pursuant to the Shared Shortages provisions set forth at Article IV.E. The Lease term may not exceed the period during which Shared Shortage provisions are in effect. The baseline annual price for this water shall be $8 per Acre-foot plus a $25 administrative fee per Lease as of July 1, 2015. From that date, the baseline annual price and the administrative fee shall be indexed for inflation and consequently adjusted annually on July 1st of each successive year thereafter (the Adjustment Date) by the percentage change over the previous twelve months in the most recent monthly Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, or such other index as the Parties may agree to use. The initial price for each Lease of any portion of the Flathead System Compact Water entered into during that year pursuant to the Shared Shortage provisions contained in Article IV.E shall be the adjusted baseline price. During the term of any given Lease, the price per Acre-foot shall continue to adjust annually on the Adjustment Date by the percentage change in the CPI-U, or such other index as the Parties may agree to use, of the previous twelve-month period. The foregoing provisions regarding the adjusted baseline price and per-Lease administrative fee shall constitute the sole and exclusive price terms of each Lease entered under this Article IV.B.6.c.ii. Any modifications of the index are pursuant to, and shall not be deemed an amendment of, this Compact.

iii. The Tribes may make or authorize a Lease of the Tribal Water Right for use within or outside the Reservation; provided that, any Lease shall be for a term not to exceed 99 years, and may include provisions authorizing renewal for an additional term not to exceed 99 years. The off-Reservation use of any portion of the Tribal Water Right is limited to a place of use within the Flathead or Clark Fork River Basins in Montana.

iv. If the Lease is for a portion of the Tribes' Flathead System Compact Water right to be delivered wholly from water stored in Hungry Horse Reservoir, the Tribes shall provide notice to the DNRC and the Water Management Board, in advance of the effective date of the Lease, of the terms of the Lease and any modifications thereto or termination thereof. For Leases lasting one irrigation season or less, notice to the DNRC and the Water Management Board shall be provided as far in advance as practicable. For Leases lasting longer than one year, notice shall be provided to the DNRC and the Water Management Board by the later of 120 days prior to the date on which the Lease is to take effect or March 31 of the year in which the Lease is to take effect. The point of delivery for a Lease shall be the outlet works at the Hungry Horse Dam. If disputes arise between or among holders of Water Rights Arising Under State Law as to the reasonable transmission and carriage losses from the point of delivery to the place of use of the Lease, the district court pursuant to its powers and duties under Title 85, Chapter 5, MCA, shall calculate such losses.

v. Any Lease or portion of a Lease to be delivered from water stored in Hungry Horse Reservoir is subject to reduction due to conditions defined in Appendix 8 on a pro rata basis as set forth in Article III.C.1.c.iii.

vi. If the Lease is for the off-Reservation use of a portion of the Tribes' Flathead System Compact Water right to be delivered from a combination of stored water and direct flow water from the Flathead River, or exclusively from direct flow water from the Flathead River, the Lease shall be treated as a change in use as it pertains to the use of the direct flow water. The DNRC shall process each change application pursuant to the provisions of 85-2-302, 85-2-307

through 85-2-310, and 85-2-314, MCA. Prior to the lessee putting leased water to beneficial use, the Tribes or the lessee must comply with the following provisions of State law as those provisions read on December 31, 2014:

1. Subsections (1) through (3) and (8) through (17) of 85-2-402, MCA;

2. Subsections (1) through (8) of 85-2-407, MCA, provided, however, that the term of any such Lease may be for up to 99 years, and the DNRC may approve the renewal of such a Lease for a period of up to 99 years; and

3. 85-2-408, MCA, as limited by the provisions of Article IV.B.6.c.vi.1.

vii. In the event that, after the date the ratification of the Compact by the Montana Legislature takes effect under State law, the Montana Legislature substantively amends or repeals any of the sections identified in Article IV.B.6.c.vi.1 through 3, the Tribes and the DNRC shall meet no later than 60 days after the effective date of the State legislative action amending or repealing to determine if they can agree whether the provisions set forth in Article IV.B.6.c.vi.1 through 3 or the new provisions of State law shall govern the process for off-Reservation Leases under this Compact. In the event that the Tribes and the DNRC are unable to agree, the provisions of Article IV.B.6.c.vi.1 through 3 shall remain in effect. Any agreed upon modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

viii. The Tribes or any Person using diversion works or facilities for the transportation of water located off the Reservation in connection with a use of the Flathead System Compact Water Right shall apply for and obtain all permits, certificates, variances and other authorizations required by State laws regulating, conditioning or permitting the siting, construction, operation, alteration or use of any equipment, device, or facility proposed to use or transport water, prior to exercising a use of the Flathead System Compact Water Right off the Reservation.

7. Lease of 11,000 Acre-Feet per Year of Water From Hungry Horse Reservoir for Off-Reservation Mitigation.

a. The Tribes shall make available for Lease off the Reservation 11,000 Acre-feet of the water identified in Article III.C.1.c.i stored in Hungry Horse Reservoir pursuant to the process, and subject to the terms and conditions, set forth in this Article IV.B.7.

b. The water identified in Article IV.B.7.a shall be available for the mitigation of net depletions arising from new or existing domestic, commercial, municipal and/or industrial uses of water at any point in the Flathead or Clark Fork Basins in Montana for which the 11,000 Acre-feet per year of water is capable of providing mitigation.

c. The DNRC, under Title 85, MCA, shall retain the responsibility for determining if, when, where, and how much mitigation water is needed for any proposed new development and if the water identified in Article IV.B.7.a meets the appropriate mitigation criteria for any proposed mitigation plan.

d. The water identified in Article IV.B.7.a is subject to reduction due to conditions defined in Appendix 8 on a pro rata basis as set forth in Article III.C.1.c.iii.

e. The mechanism for entering into a Lease for any portion of the water set forth in this Article IV.B.7.a shall be as follows:

i. Any interested Person may approach the Tribes, through the Tribal Lands Department or successor Tribal department, to negotiate a Lease of a portion of this water;

ii. The baseline annual per Acre-foot price for this water shall be set at $40 as of July 1, 2015. From that date, the baseline price shall be indexed for inflation and consequently adjusted annually on July 1st of each year thereafter (the Adjustment Date) by the percentage change over the previous year in the most recent monthly Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, or such other index as the Parties may agree. The initial price for each Lease of any portion of the 11,000 Acre-feet identified in this Article IV.B.7 entered into during that year shall be the adjusted baseline price. During the term of any given Lease, the price per Acre-foot shall continue to adjust annually on the Adjustment Date by the percentage change in the CPI-U, or such other index as the Parties may agree to use, of the previous twelve-month period. The foregoing provisions regarding the adjusted baseline price shall constitute the sole and exclusive price term of each Lease;

iii. Each Lease between the Tribes and a lessee shall be for a term of 99 years, with the lessee holding an option to renew for an additional 99 years, unless the Tribes and the lessee affirmatively agree on an alternate duration not to exceed 99 years. Any Lease including a term of alternate duration may also include an option to renew for a term not to exceed 99 years; and

iv. The Tribes and each prospective lessee shall negotiate any and all other non-price terms of the Lease arrangement.

f. In the event of an impasse between the Tribes and a prospective lessee over any non-price term, the prospective lessee may file a notice of impasse with the Water Management Board, invoking the Board's authority to resolve any such impasse pursuant to the process set forth in Article IV.B.7.g.

g. Process for resolving disputes over Lease terms.

i. Upon receipt of a notice of impasse, the Board shall date stamp it. Within three days of the filing of a notice of impasse, the Board shall provide notice of the filing to the Tribes, with a copy to the prospective lessee, identifying a date certain between 30 and 60 days from the date of receipt of the notice for the Tribes and the prospective lessee each to submit a last, best offer concerning all of the non-price terms.

ii. No later than the date set by the Board, the Tribes and the prospective lessee shall file a last, best offer with the Board in the form of a proposed Lease agreement and shall serve the same on each other. To be filed, the offer must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the offers shall be date stamped. If the Tribes fail to timely file an offer, the offer filed by the prospective lessee shall become the terms of the Lease. If the prospective lessee fails to timely file an offer, no Lease shall be concluded.

iii. The Board shall issue a decision selecting one side's offer or the other's between 15 and 45 days after the filing of the offer. At any time prior to the Board's decision, the prospective lessee may choose to withdraw the prospective lessee's offer and decline to enter into the Lease.

iv. The Board shall provide notice of its decision to both the Tribes and the prospective lessee. The Lease shall be concluded on the terms selected by the Board, but must include the price term identified in Article IV.B.7.e.ii of this Compact. The effective date of the Lease shall be ten days after the Board's issuance of its decision.

v. The Tribes or a prospective lessee dissatisfied with a decision of the Board made pursuant to this Article IV.B.7.g may appeal that decision by filing a petition for judicial review with a Court of Competent Jurisdiction within 30 days of the issuance of the Board's decision. The court shall review the Board's decision for abuse of discretion.

C. Exercise of Certain Portions of the Tribal Water Right Related to the FIIP.

1. Priority for the Exercise of the FIIP Instream Flow and FIIP Water Use Rights. Once the water rights described in Article III.C become enforceable, the following relative priorities among those rights shall apply:

a. Minimum Enforceable Instream Flows.

b. Minimum Reservoir Pool Elevations.

c. River Diversion Allowances.

d. Target Instream Flows.

2. Reallocated Water in excess of Target Instream Flows will be split as equally as hydrologically practicable between the Instream Flow water rights set forth in Article III.C.1.d.ii and the FIIP Water Use Right set forth in Article III.C.1.a.

3. MEF and TIF implementation and schedule. Exercise of FIIP Instream Flow Rights set forth in Article III.C.1.d.ii shall be accomplished through the implementation and enforcement of MEFs and TIFs and is subject to the Shared Shortage and Adaptive Management provisions set forth in Article IV.E and F and Appendix 3.5.

a. MEFs and TIFs shall be enforceable at the values set forth in Appendix 3.1.

b. Implementation and enforceability of MEFs and TIFs.

i. Incremental implementation of Operational Improvements will result in additional FIIP Instream Flow.

ii. MEFs and TIFs shall be enforceable following the completion of Operational Improvements according to the schedule attached hereto as Appendix 3.4.

iii. Reallocated Water from Rehabilitation and Betterment Projects shall be used to incrementally achieve FIIP Instream Flows set forth in Article III.C.1.d.ii.

iv. If the schedule attached hereto as Appendix 3.4 cannot be met due to lack of available funding or other circumstances outside of the control of the Parties or Project Operator, the Parties may agree to adjust the schedule as necessary to allow for timely implementation of MEFs and TIFs. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

v. If the Project Operator fails to implement the schedule attached hereto as Appendix 3.4 due to acts, errors, or omissions of the Project Operator, MEFs and TIFs will be enforceable as though the schedule had been implemented.

c. Until an MEF has become enforceable, the interim Instream Flow, where applicable, for that location shall be the enforceable Instream Flow. Where the Instream Flow has been incrementally increased above the interim Instream Flow level as a result of the partial completion of actions listed in the Implementation Schedule attached hereto as Appendix 3.4, the incrementally achieved level may be maintained until the MEF is achieved.

d. Until a Minimum Reservoir Pool Elevation has become enforceable, the interim reservoir pool elevation, where applicable, for that location shall be enforced.

e. TIFs shall be determined seasonally according to Appendix 3.5, and will vary between the wet and normal year levels attached hereto as Appendix 3.1.

4. Minimum Reservoir Pool Elevations. Minimum Reservoir Pool Elevations attached hereto as Appendix 3.1 shall be enforceable according to the schedule specified in Appendix 3.4. Enforceability of Minimum Reservoir Pool Elevations is subject to Article IV.E, Appendix 3.5, and superseding Federal law allowing for regulation of reservoir elevations.

D. Exercise of the FIIP Water Use Right.

1. FIIP Water Use Right.

a. The FIIP Water Use Right shall be satisfied by meeting the RDA values for each RDA Area attached hereto as Appendix 3.2 and as evaluated pursuant to Article IV.D.1.e.

b. RDAs shall be enforceable according to the schedule attached hereto as Appendix 3.4, subject to evaluation pursuant to Article IV.D.1.e.

c. Headworks diversion amounts shall be progressively adjusted to achieve the RDAs as Operational Improvements are completed pursuant to Appendix 3.4.

d. Once RDAs are achieved through completion of Operational Improvements, headworks diversion amounts shall be progressively adjusted as Rehabilitation and Betterment is completed pursuant to Appendix 3.6. The enforceable RDA for the location in which a particular Rehabilitation and Betterment project has been completed is the amount defined in Appendix 3.2, reduced by the volume of Reallocated Water made available by that Rehabilitation and Betterment project. The amount actually diverted may be adjusted pursuant to the evaluation process described in Article IV.D.1.e.

e. RDA values shall be evaluated to ensure their adequacy to meet Historic Farm Deliveries. Initial evaluation of RDAs shall occur once the Parties and Project Operator have completed all Operational Improvements in a given RDA Area according to the schedule attached hereto as Appendix 3.4. Evaluation of RDAs will continue as part of the responsibilities of the CITT described in Appendix 3.5 as follows:

i. The Project Operator must measure and record farm turnout deliveries within a given RDA Area.

ii. If the aggregate measured deliveries to farm turnouts do not meet Historic Farm Deliveries for a given RDA Area, actual diversions shall be adjusted to assure that Historic Farm Deliveries are met for wet, normal and dry water years. If water in excess of the RDA is needed to meet Historic Farm Deliveries, it will be provided through an increase of the Flathead River pumping plant diversion allowed by the Flathead Pumping Station RDA attached hereto as Appendix 3.2. If the aggregate measured deliveries to farm turnouts exceed Historic Farm Deliveries within an RDA Area, the actual diversions shall be reduced accordingly.

iii. Any adjustment of actual diversions pursuant to this section shall not result in decrease of the MEFs, TIFs, or Minimum Reservoir Pool Elevations.

f. RDAs are quantified for wet, normal, and dry Natural Flow years, attached hereto as Appendix 3.2, and shall be set each year according to the process specified in Appendix 3.5.

2. FIIP Delivery Entitlement Statement. Assessed land within the FIIP is entitled to have water delivered by the Project Operator if the FIIP customer is in compliance with the applicable BIA rules and guidelines for FIIP. Beginning on the Effective Date, an owner of assessed land within the FIIP may request of

the Project Operator a delivery entitlement statement, which must be tendered within 90 days of the request or denied for cause. Beginning on the date one year after the Effective Date, the delivery entitlement statement must be tendered or denied within 30 days. The delivery entitlement runs with the land and is valid so long as the land remains assessed and the FIIP customer is in compliance with the applicable BIA rules and guidelines for FIIP.

E. Shared Shortages Provision.

1. In the event that water supplies are inadequate to simultaneously satisfy an enforceable Instream Flow water right and a corresponding RDA, the provisions of Article IV.E govern the exercise of the water rights set forth in Articles III.C.1.a and III.C.1.d.ii and iv at that location. The CITT shall determine when Shared Shortages conditions begin and end as specified in Appendix 3.5.

2. For purposes of Article IV.E, once MEFs and RDAs have become enforceable, they shall be maintained at the levels set forth in Appendices 3.1 and 3.2, as adjusted pursuant to Article IV.D.1.e. Prior to enforceability of the MEF and RDA levels attached hereto as Appendices 3.1 and 3.2, Instream Flows will be maintained as provided by Article IV.C.3.c and RDAs will be maintained as provided by Article IV.D.1.b and c.

3. Subject to the priority system set forth in Article IV.C.1, RDAs shall be maintained by implementing the following measures in the order of priority set forth below:

a. Available Natural Flow or regulated streamflow shall be diverted by the Project Operator to satisfy RDAs.

b. If the application of Article IV.E.3.a does not satisfy RDAs, Flathead River pumping plant diversions shall be increased as allowed by the Flathead Pumping Station RDA attached hereto as Appendix 3.2.

c. If the application of Article IV.E.3.a and b does not satisfy RDAs, FIIP reservoirs may be reduced below the Minimum Reservoir Pool Elevations specified in Appendix 3.1 to supply RDAs, subject to Article IV.E.5.

d. If the application of Article IV.E.3.a through c does not satisfy RDAs, the Tribes shall make available for short-term lease Flathead System Compact Water for use within the FIIP as provided by Article IV.B.6.c.ii.

4. Within the Basin 76LJ portion of the Little Bitterroot Valley, RDAs shall be maintained by sequentially applying the procedures in Article IV.E.3.a through c, where applicable.

5. As set forth in Article IV.E.3.c, FIIP reservoirs may be reduced below the Minimum Reservoir Pool Elevations set forth in Article III.C.1.e to support RDAs as follows:

a. FIIP reservoirs may be reduced pursuant to this section for no more than four consecutive years.

b. Article IV.E.3.c does not apply to Mission Reservoir.

c. FIIP reservoirs may not be reduced below the interim reservoir pool elevations set forth in Article III.C.1.e.iv and attached hereto as Appendix 13.

d. RDAs may be met from carryover reservoir storage, at the discretion of the Project Operator.

F. Requirement to Implement Adaptive Management and Water Measurement.

1. The Parties agree that Adaptive Management and a comprehensive water measurement program, as described in Appendix 3.5, are essential to the successful implementation of this Compact.

2. The Parties, upon mutual written agreement, and in conformance with the Compact and other applicable provisions of law, may amend Appendix 3.5. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

G. Compact Implementation Technical Team. Within six months of the date the ratification of the Compact by the Montana Legislature takes effect under State law, the Parties shall establish a Compact Implementation Technical Team (CITT) to allow planning for and implementation of Operational Improvements, Rehabilitation and Betterment, and Adaptive Management prior to and following the Effective Date.

1. The CITT membership shall be as provided for in Appendix 3.5.

2. The CITT shall carry out the duties specified by Appendix 3.5.

3. The CITT shall develop criteria for prioritizing and selecting projects.

4. Public Meetings and Records:

a. All regularly scheduled meetings of the CITT shall be open to the observation of the general public pursuant to State and Tribal open meeting laws. Where there is a conflict of laws, the law that provides for greater openness to the public applies.

b. CITT records are public records and shall be made available to the public for inspection under such reasonable terms and conditions as the CITT shall establish.

5. Disputes Related to the Compact Implementation Technical Team. The Parties agree to perform each obligation set forth in this Compact in good faith and with diligence and loyalty to this agreement. The Parties shall form a Compact Management Committee (CMC) comprised of the Director of the Montana Department of Natural Resources, the Chairman of the Tribal Council, and the Regional Director of the Northwest Region of the Bureau of Indian Affairs or their designees. The CMC will provide policy and administrative oversight of the CITT.

a. The CITT shall attempt to reach consensus on all of its actions.

b. Where consensus is not achieved, the CITT will resolve disputed issues by majority vote.

c. If the CITT vote results in a tie, or is appealed, the disputed issue will be referred to the CMC. The CMC will review and attempt to reach consensus on the disputed issue and if consensus is not possible, will resolve the issue by majority vote.

d. A majority vote of the CMC may be appealed using the following procedures:

i. Disputes arising out of any act, failure to act, error or omission of the BIA or Project Operator involving Operational Improvements or Rehabilitation and Betterment or otherwise affecting real property owned by the United States may be appealed under Title 25, Part 2, Code of Federal Regulations.

ii. For disputes raising questions of Compact interpretation, the CMC shall immediately seek a determination of those questions from the Water Management Board, which determination will be provided in writing within 30 days.

iii. All other disputes may be appealed to a Court of Competent Jurisdiction. In considering a petition for relief, a Court of Competent Jurisdiction will review the CMC's legal conclusions for correctness and its factual findings for abuse of discretion.

H. Power Provisions

1. Low-Cost Block of Power

The Parties recognize that Article 40 of the Kerr Project License, as amended, jointly issued to the Montana Power Company and the Tribes for the Kerr Project, Project No. 5, requires Montana Power Company, through its successor-in-interest, NorthWestern Energy, to make available the capacity and energy up to 3.734 megawatts at up to 100 percent load factor during the months of April through October to the United States, for and on behalf of the FIIP, at the rates set forth in and adjusted in accordance with such Article.

The Parties agree that the Kerr Project License Article 40 Low Cost Block of Power is equivalent to the delivery of 19,178,000 kilowatt hours of electricity per year, and generally supplies electricity necessary to pump approximately 46,000 Acre-feet of water per year to the FIIP. If the operation and maintenance, and all other rights and responsibilities for the Kerr Project are assumed by the Tribes or their wholly-owned corporation, the Tribes agree, to the extent permitted under applicable license(s) and Federal law, to make the Low Cost Block of Power available in the same manner and at the same rates, as adjusted, as NorthWestern Energy. If the Tribes seek a new license for the Kerr Project, the Tribes or their wholly-owned corporation, agree that their license application will request authority from FERC to make the Low Cost Block of Power available in the same manner and at the same rates, as adjusted, as NorthWestern Energy.

2. Net Power in Excess of Low Cost Block

For purposes of Article IV.E, power required to run the Flathead Pumping Station in excess of the Low Cost Block of Power identified in Article IV.H.1 shall be purchased at the price at which Mission Valley Power sells power for irrigation purposes.

3. Net Power Revenues

The State and Tribes agree to seek provisions in the Federal legislation ratifying this Compact for Mission Valley Power to budget annually for an anticipated amount of $200,000 of Net Power Revenues to be made available in the subsequent year to meet the needs of both the power system and the FIIP with an initial allocation of the Net Power Revenue that provides fifty percent to the Project Operator and fifty percent to the Tribes. These funds shall only be used for work on the FIIP that has significant fisheries, water conservation, or water management benefits. If on an annual basis such work by the Project Operator or the Tribes does not require the full amount of such net revenues the remainder shall be set aside and accumulated for future expenditure for these purposes. This initial allocation may be changed by mutual agreement of the Parties within nine (9) years of the Effective Date, with any subsequent agreement to become effective on the tenth (10th) anniversary of the Effective Date. Any such modification is pursuant to, and shall not be deemed an amendment of, this Compact.

I. Administration: Establishment of Flathead Reservation Water Management Board.

1. Establishment of Board. There is hereby established the Flathead Reservation Water Management Board. Upon the Effective Date, the Board

shall be the exclusive regulatory body on the Reservation for the issuance of Appropriation Rights and authorizations for Changes in Use of Appropriation Rights and Existing Uses, and for the administration and enforcement of all Appropriation Rights and Existing Uses. The Board shall also have exclusive jurisdiction to resolve any controversy over the meaning and interpretation of the Compact on the Reservation, and any controversy over the right to the use of water as between the Parties or between or among holders of Appropriation Rights and Existing Uses on the Reservation except as explicitly provided otherwise in Article IV.G.5. The jurisdiction of this Board does not extend to any water rights whose place of use is located outside the exterior boundaries of the Reservation.

2. Membership.

a. Voting Members. The Board shall consist of five voting members: two members selected by the Governor of the State pursuant to Article IV.I.2.b, after consultation with holders of Water Rights Arising Under State Law located on the Reservation; two members appointed by the Tribal Council; and one member selected by the other four members. All members shall be appointed within six months of the Effective Date.

b. Appointment by Governor. Within 90 days of the Effective Date, or 15 days of any vacancy in one or more of the Board positions selected by the Governor, the commissioners of each county whose boundaries include any portion of the Reservation shall nominate individuals for the Governor's consideration for appointment to the Board as follows:

i. The Commissioners of Lake County shall choose five (5) nominees;

ii. The Commissioners of Sanders County shall choose three (3) nominees;

iii. The Commissioners of Missoula County shall choose two (2) nominees;

iv. The Commissioners of Flathead County shall choose one (1) nominee; and

v. Each nominee must meet the eligibility requirements of Article IV.I.2.f.

The Governor shall choose two Board members from the group of nominees. If the county commissioners fail to nominate a minimum of seven (7) individuals for selection by the Governor within the time set forth in Article IV.I.2.b, the Governor may select any two individual(s) who meet the eligibility requirements set forth in Article IV.I.2.f after consultation with Holders of Water Rights Arising Under State Law located on the Reservation.

c. Should the four appointed members fail to agree on the selection of a fifth voting member within sixty days of the date of appointment of the fourth member, or within thirty days after any vacancy in that fifth position occurs, the following procedure shall be utilized:

i. Within five days thereafter the two members appointed by the Tribal Council shall nominate three individuals to serve as a member of the Board and the two members appointed by the Governor shall nominate three individuals to serve as a member of the Board;

ii. Within fifteen days thereafter the two members appointed by the Tribal Council shall reject two of the individuals nominated by the two members appointed by the Governor, and the two members appointed by the Governor shall reject two of the individuals nominated by the two members appointed by the Tribal Council; and

iii. Within five days thereafter, the remaining two nominees shall be submitted to the Chief Judge of the United States District Court for the District of Montana for selection of the fifth member of the Board.

d. Ex Officio Member. The Board shall also have a sixth, non-voting member appointed by the Secretary.

e. Term. Initially, three voting members of the Board shall serve for four years, and two shall serve for two years. One member appointed by the Governor, one member appointed by the Tribal Council and the fifth voting member shall serve for four years. One member appointed by the Governor and one member appointed by the Tribal Council shall serve for two years. The member appointed by the Secretary shall be appointed for four years. At the expiration of the initial two-year appointments, all subsequently appointed Board members shall serve four year terms.

f. Eligibility. To be eligible to serve on the Board, an individual must be over 18 years of age and be a Reservation resident. For the purposes of filling a position on the Water Management Board, a Reservation resident is an individual who:

i. does business within Flathead Indian Reservation boundaries;

ii. is domiciled within Flathead Indian Reservation boundaries; or

iii. owns and maintains a seasonal residence within Flathead Indian Reservation boundaries.

An eligible individual must also have education and experience in one or more of the following fields: natural resources management, public administration, agriculture, engineering, commerce or finance, hydrology, biological sciences, water law or water policy.

No elected official of the State of Montana, or any political subdivision thereof, or of the United States, or of the Tribes is eligible for nomination to the Board while holding such elective office. However, a nominee for Board membership shall not be disqualified by reason of the fact that he or she is an employee or contractor of the State of Montana or any political subdivision thereof, or of the Tribes, or of the United States.

No Board member may vote on any application or appeal that the member participated in personally and substantially in any non-Board capacity.

g. Vacancies. Subject to the provisions of Article IV.I.2.a and c regarding the filling of a vacancy of the fifth member of the Board, upon the occurrence of any other vacancy in a Board position, the Tribal Council, if the vacancy is in a position appointed by the Tribal Council, or the Governor, if the vacancy is in a position appointed by the Governor, shall name a new Board member within 30 days of the occurrence of the vacancy. Should Board action be required during the period of any such vacancy, the Department Head of the Tribal Natural Resources Department, if the vacancy is in a position appointed by the Tribal Council, or the Director of the DNRC, if the vacancy is in a position appointed by the Governor, shall fill the vacant position on an acting basis until a new appointment is made.

h. Compensation and Expenses of the Board. Each Board member shall receive such compensation for services and reimbursement for expenses for attendance at Board meetings as shall be fixed by the State and the Tribal Council for the Board members appointed by the same. The compensation for the fifth Board member shall be set jointly by the State and the Tribal Council. The expenses of the Federal ex officio member shall be covered by the United States.

3. Quorum and Vote Required. Four Board members appointed pursuant to Article IV.I.2.a shall constitute a quorum. No Board action may be voted upon in the absence of a quorum. All Board decisions shall be by affirmative vote of a

majority of the Board, except as set forth in Article IV.I.5.d for the appointment of water commissioners. If a proposal put to a vote of a quorum of Board members ends in a tie vote, the proposal is deemed disapproved or denied.

4. Jurisdiction of the Board.

a. Issuance of Appropriation Rights. Upon the Effective Date, the Board shall have exclusive jurisdiction over the issuance of all new Appropriation Rights on the Reservation. The process for the consideration, issuance or denial of all Appropriation Rights is set forth in the Law of Administration.

b. Authorizations for Changes in Use. Upon the Effective Date, the Board shall have exclusive jurisdiction over the issuance of authorizations for Changes in Use of all water rights on the Reservation. The process for the consideration, issuance or denial of such Change in Use authorizations is set forth in the Law of Administration.

c. Enforcement. Upon the Effective Date, the Board shall have the jurisdiction to enforce the terms of this Compact as provided by Article IV.I.1. All controversies cognizable under this subsection shall be heard and resolved pursuant to the Compact and the Law of Administration.

d. Water Right Ownership Updates. The Board shall not have jurisdiction over water right ownership updates on water rights appurtenant to fee lands, which shall remain with the DNRC as set forth in 85-2-421 through 85-2-424, 85-2-426, and 85-2-431, MCA.

5. Powers and Duties.

a. In General. The Board shall have the power to promulgate procedures, prescribe forms, develop additional materials and implement amendments thereto as may be necessary and proper to exercise its jurisdiction and carry out its assigned functions under this Compact and the Law of Administration. A set of forms for initial use by the Board in the implementation of the Law of Administration is attached hereto as Appendix 37. The Board may amend these forms at its discretion. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

b. Hearings. Pursuant to the procedures set forth in the Law of Administration, the Board shall hold hearings upon notice in proceedings before it and shall have the power to administer oaths, take evidence and issue subpoenas to compel attendance of witnesses or production of documents or other evidence, and to appoint technical experts. The Tribes and the State shall enforce the Board's subpoenas in the same manner as prescribed by the laws of the Tribes and the State for enforcing a subpoena issued by the courts of each respective sovereign in a civil action. The Persons involved in the controversy may present evidence and cross-examine any witnesses. The Board shall cause all hearings to be recorded, and shall determine the controversy and grant any declaratory or injunctive relief allowed by the Law of Administration, including a temporary order. The Board shall not have power to award money damages, attorneys' fees or costs; however it shall have the power to impose fines pursuant to the terms of the Law of Administration and award any kind of equitable relief. All decisions of the Board shall be in writing, and, together with a written justification for the decision and any dissenting opinions, shall be served personally or by certified mail on all Persons involved in the proceeding before the Board. All records of the Board shall be open to public inspection.

c. Employment of Water Engineer. The Board shall have the authority to employ a Water Engineer to carry out such functions as assigned by the Board pursuant to the Law of Administration, including the supervision of any water

commissioners appointed by the Board. As set forth in the Law of Administration, the Engineer shall hold hearings upon notice in proceedings before the Engineer and shall have the power to administer oaths, take evidence and issue subpoenas to compel attendance of witnesses or production of documents or other evidence, and to appoint technical experts. The Tribes and the State shall enforce the Engineer's subpoenas in the same manner as prescribed by the laws of the Tribes and the State for enforcing a subpoena issued by the courts of each respective sovereign in a civil action. The Persons involved in the controversy may present evidence and cross examine any witnesses. The Engineer shall cause all hearings to be recorded, and shall determine the controversy and grant any relief allowed by the Law of Administration, including a temporary order. All decisions of the Engineer shall be in writing, and, together with a written justification for the decision, shall be served personally or by certified mail on all Persons involved in the proceeding before the Engineer. All records of the Engineer shall be open to public inspection.

d. Appointment of Water Commissioner(s)

i. The Board shall have the authority, upon a unanimous vote of all five members of the Board, to appoint one or more commissioners to provide day-to-day administration of water on the Reservation. The compensation for any such commissioner and the identification of the Person(s) responsible for paying costs associated with the appointment of any such commissioner must also be established by a unanimous vote of all five members of the Board as part of the Board action appointing any such commissioner. Any commissioner appointed shall act under the supervision of the Water Engineer.

ii. Under the jurisdiction of the Board, and as set forth in the Law of Administration, the commissioner(s) shall have the authority to administer and distribute water only on the Reservation. The authority of any commissioner(s) appointed pursuant to this subsection, as it pertains to portions of the Tribal Water Right used within the FIIP, extends only to the delivery of water to FIIP diversion facilities and shall not extend to the administration of that water in FIIP facilities or on lands served by the FIIP, which shall remain subject to the authority of the Project Operator.

6. Review and Enforcement of Board Decisions.

a. Decisions by the Board shall be effective immediately, unless stayed by the Board. Persons involved in the proceedings before the Board may appeal any final decision by the Board to a Court of Competent Jurisdiction within thirty days of such decision. An appeal of a final decision of the Board shall be styled as a petition for judicial review of an agency decision pursuant to the rules of procedure of the court from which review is sought. The petition for judicial review shall be filed with the Board and the court and served upon all Persons involved in the proceeding before the Board, as well as the Tribes, the State and the United States. Service shall be accomplished according to the requirements of the court's rules of procedure.

b. Unless a petition is filed within thirty days of a final decision of the Board, as provided in Article IV.I.6.a, any decision of the Board shall be recognized and enforced by any court with personal and subject matter jurisdiction over the matter on petition by any Person, or a successor in interest, before the Board in the proceeding in which the decision was made.

c. A Court of Competent Jurisdiction in which a timely petition is filed pursuant to Article IV.I.6.a, or any court with personal and subject matter jurisdiction over the matter in which a petition to confirm or enforce is filed

pursuant to Article IV.I.6.b, may order such temporary or permanent relief as it considers just and proper subject to the limited waivers of immunity set forth in Article IV.I.8.

d. An appeal may be taken from any decision of the court in which a timely appeal is filed pursuant to Article IV.I.6.a, or in which a petition to confirm or enforce is filed pursuant to Article IV.I.6.b, in the manner and to the same extent as from orders or judgments of the court in a civil action.

e. In any petition to confirm or enforce the Board's decision, the Board shall file with the court to which appeal is taken the record of the proceedings before the Board within the time and in the manner provided by the court's rules of procedure.

f. The appellate court shall conduct the review on the record made before the Board. In considering the petition, the Board's legal conclusions shall be reviewed for correctness and its factual findings for abuse of discretion.

g. In the event that a court determines that it lacks subject matter or personal jurisdiction to rule on a petition for judicial review of a Board decision, the party filing the petition shall be entitled to petition for judicial review from any other Court of Competent Jurisdiction within thirty days from the date of a final court order finding a lack of jurisdiction.

7. Public Meetings and Records

a. Notwithstanding any other provisions of law, the Board is a public agency for purposes of the applicability of State and Tribal right to know laws.

b. All regular and special meetings of the Board, including all hearings conducted by the Office of the Engineer or the Board, shall be open to the observation of the general public pursuant to State and Tribal open meeting laws. Where there is a conflict of laws, the law that provides for greater openness to the public applies.

c. Where no more specific notice provisions are set forth in the Law of Administration, notice of any meeting, including an agenda, shall be provided to the public in a manner and timeframe consistent with the criteria set forth in State and Tribal law. Where there is a conflict of laws, the law that provides for earlier notice shall apply.

d. The Board shall keep the following records:

i. minutes of all meetings;

ii. recordings of all hearings conducted by the Board or the Office of the Engineer;

iii. all documents filed with or generated by the Board or the Office of the Engineer;

iv. any other records required by applicable provisions of Federal, State or Tribal law, provided that if there is a conflict of laws, the law that provides for more expansive record retention shall apply.

e. All Board records are public records and shall be made available to the public for inspection under such reasonable terms and conditions as the Board shall establish.

8. Waiver of Immunity. The Tribes and the State hereby waive their respective immunities from suit, including any defense the State shall have under the Eleventh Amendment of the Constitution of the United States, in order to permit the resolution of disputes under the Compact by the Board, and the appeal or judicial enforcement of Board decisions as provided herein, except that such waivers of sovereign immunity by the Tribes or the State shall not

extend to any action for money damages, costs, or attorneys' fees. The Parties recognize that only Congress can waive the immunity of the United States and that the participation of the United States in the proceedings of the Board shall be governed by Federal law, including 43 U.S.C. 666.

J. Amendments to the Law of Administration. The Board may not amend the Law of Administration. No amendment by the Tribes or the State of the Law of Administration shall be effective unless and until the other makes an analogous amendment. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

K. Water Rights Database. The Board shall cause all Appropriation Rights and Changes in Use authorized by the Board and all uses of water registered pursuant to the Law of Administration to be entered into the DNRC water rights database in a format agreed to by the Board and the DNRC.

ARTICLE V - DISCLAIMERS AND RESERVATION OF RIGHTS

A. No Effect on Water Rights of Other Tribes or on other Federal Reserved Water Rights.

1. Except as otherwise provided herein, the relationship between the Tribal Water Right described herein and any water rights of any other Indian tribe or its members, or of any federally-derived water right of an individual outside the boundaries of the Flathead Indian Reservation, or of the United States in its own right or on behalf of such other tribes or individuals, shall be determined by the rule of priority.

2. Nothing in this Compact shall be construed or interpreted as a precedent to establish the nature, extent, or manner of administration of the rights to water of any other Indian tribe, its members or Indian owners of trust land outside of the Flathead Indian Reservation.

3. Nothing in this Compact is intended, nor shall it be used, to affect or abrogate a right or claim of an Indian tribe other than the Confederated Salish and Kootenai Tribes.

4. Except as provided herein and authorized by Congress, nothing in this Compact shall be construed or interpreted to establish the nature, extent, or manner of administration of rights to water of the United States on Federal lands outside of the Flathead Indian Reservation.

B. General Disclaimers. Nothing in this Compact shall be construed or interpreted:

1. To preclude the Tribes, Tribal members, and Allottees, or the United States, from applying to the Water Management Board for an Appropriation Right under the Law of Administration on the same basis as any other Person;

2. As a precedent for litigation of aboriginal or reserved water rights;

3. As precedent for interpretation or administration of future compacts between the United States and the State, or between the United States and any other state, or between the State and any other state;

4. As precedent for negotiation, interpretation or administration of any existing or future Compact, negotiated settlement, judicial settlement or other form of accommodation of water rights involving Indian tribes or individual Indians;

5. To preclude the possession, acquisition or exercise of Water Rights Arising Under State Law by the Tribes or Allottees or members of the Tribes;

6. To limit in any way the right of the Parties or any other Person to litigate any issue or question not resolved by this Compact;

7. To authorize the taking of any water right that is vested under State, Tribal or Federal law;

8. To affect the ability of tribes or qualified individuals under Title 25, Sections 151.4 and 151.8, Code of Federal Regulations, to purchase land from willing sellers or the Secretary's ability to convert fee land to trust land status;

9. To create or deny substantive rights through headings or captions used in this Compact;

10. To address or prejudge how the Tribal Water Right may be treated or interpreted in any interstate or international water apportionment proceeding;

11. To constitute a waiver of sovereign immunity by the Tribes or the State except as expressly set forth in this Compact;

12. To constitute a waiver of sovereign immunity by the United States except as expressly set forth in 43 U.S.C. 666 or as otherwise provided by Congress;

13. Except as expressly provided herein and as may be required by Congress, to modify the obligations of any agency of the United States;

14. To limit or prohibit the Tribes, their members or Allottees, or to limit the United States in any capacity, from objecting in any general stream adjudication in the Montana Water Court to any claims to water rights on or off the Flathead Indian Reservation;

15. To prevent the Montana Water Court from adjudicating any properly filed claims or objections to the use of water within the Flathead Indian Reservation;

16. To limit or prohibit the Tribes, their members or Allottees, or the United States in any capacity, from filing any necessary action to prevent any Person or Party from interfering with the Tribal Water Right;

17. To affect or determine the applicability of any State, Tribal or Federal law not subject to this Compact, including, but not limited to environmental and public safety laws, on activities of the Tribes, their members or Allottees or the United States;

18. To prejudice or predetermine any right that Tribal members or Allottees have to obtain the use of a portion of the Tribal Water Right under the provisions of this Compact and the Law of Administration;

19. To affect the capacity of any Tribal member or Allottee to lease his or her land;

20. To empower the Water Management Board to assess a fee for the use of water;

21. To confer any jurisdiction on the Water Management Board over any water right whose place of use is located outside the exterior boundaries of the Reservation;

22. To limit, diminish, modify, or enlarge any Party's adjudicatory or legislative jurisdiction except as expressly provided herein;

23. To constitute a waiver of an individual's right to object to the Compact during the Water Court decree process; or

24. To transfer, convert, or otherwise change the ownership or trust/fee status of land on the Reservation. Specifically, nothing in this Compact changes fee owned land to trust land or trust land to fee land, or in any way alters the ownership status of land within the exterior boundaries of the Flathead Indian Reservation.

C. Other Rights Reserved.

1. Nothing in this Compact is intended, nor shall be interpreted or applied, in any manner to alter, limit, or diminish the right of the Tribes to take all steps they deem necessary or prudent before any court or adjudicative forum, any legislature or legislative entity, or any State or Federal administrative agency, including but not limited to the Federal Energy Regulatory Commission, to protect any interests in Water Rights Arising Under State Law that the Tribes may acquire or seek to acquire and which are associated with the Federal Energy Regulatory Commission license for the Kerr Hydroelectric Project, FERC Project No. 5 (32 FERC # 61,070, July 17, 1985, as amended) or any other hydroelectric facility located on the Reservation subject to FERC jurisdiction.

2. The Parties expressly reserve all rights not granted, recognized or relinquished in this Compact, including but not limited to the right to the continued exercise by members of the Tribes of Tribal off-Reservation rights to hunt, fish, trap and gather food and other materials, as reserved in Article III of the Hellgate Treaty of July 16, 1855 (12 Stat. 975).

D. Obligations of the United States Contingent.

1. Notwithstanding any language contained herein and except as authorized under Federal law, the obligations of the United States under this Compact shall be contingent upon ratification and necessary authorization by Congress.

2. The expenditure or advance of any money or the performance of any work by the United States or the Tribes pursuant to this Compact which requires appropriation of money by Congress or by the Tribes is contingent on such appropriation being timely made.

3. The Tribes and the State recognize that this Compact has not been finally approved by the United States as of the date of execution by the Tribes or the State, and that ratification by the Tribes or by the State in no manner limits or restricts the discretion of the United States in the negotiation of all matters related to this Compact.

E. Obligations of the State Contingent. The expenditure or advance of any money or the performance of any work by the State pursuant to this Compact that requires appropriation of money by the Montana Legislature or allotment of funds shall be contingent upon such appropriation or allotment.

ARTICLE VI - CONTRIBUTIONS TO SETTLEMENT

A. State Contribution to Settlement. The Parties agree that the State contribution to settlement shall be $55 million. The agreement to, expenditure, or advance of any State contribution which may require authorization and appropriation of money by the Montana Legislature or allotment of funds is contingent on such appropriation or allotment being made pursuant to Article V, Section 11(4) of the Montana Constitution. The Parties recognize that the amount and structure of the State funding is contingent on action of the Montana Legislature. If the Legislature appropriates funds in a manner inconsistent with the structure contemplated by the Parties in this section, the Parties agree to meet and confer to consider adjustments to the funding structure and priorities described in Articles IV.H.1.a and b above. Such modifications are pursuant to, and shall not be deemed an amendment of, this Compact.

1. The State Contribution to Settlement shall be allocated as follows:

a. $4 million for water measurement activities;

b. $4 million for improving on-farm efficiency;

c. $4 million for mitigating the loss of Stock Water deliveries from the FIIP;

d. $30 million to offset pumping costs associated with Compact implementation and related projects; and

e. $13 million to provide for aquatic and terrestrial habitat enhancement.

B. Federal Contribution to Settlement. The Parties agree that the Federal contribution to settlement shall be negotiated by the Tribes, the State, and the United States as part of the negotiations on the Federal legislation to ratify and effectuate the Compact.

ARTICLE VII - FINALITY

A. Ratification and Effectiveness of Compact.

1. The terms of the Compact may not be amended without the consent of all the Parties following the first ratification by any Party. After the Effective Date, no provision of the Compact shall be modified except as expressly provided in the Compact. Any amendment that is not expressly provided for in the Compact must be ratified in the same manner as the Compact; however, if the proposed amendment concerns non-monetary matters and does not affect the water rights of the Tribes determined in this Compact or other property held in trust by the United States on behalf of the Tribes or Indians, the Secretary may ratify such amendment on behalf of the United States, as determined by Congress. The State and the Tribes will support provisions in the Federal legislation ratifying the Compact that delegates to the Secretary the authority to ratify such future amendments on behalf of the United States.

2. Notwithstanding any other provision in the Compact, the Tribes reserve the unilateral right to withdraw as a Party if:

a. Congress has not ratified this Compact and authorized appropriations for the Federal contribution to the settlement within four years from the date on which the ratification of the Compact by the Montana Legislature takes effect under State law. This is a continuing right until Congress ratifies the Compact;

b. Appropriations are not made in the manner contemplated by the Federal legislation ratifying this Compact;

c. The Parties do not reach agreement on the State contribution to settlement;

d. The State has not authorized appropriations for the State contribution to settlement within five years from the date the Compact is ratified by the United States; or

e. Appropriations are not made by the State in the manner contemplated by any agreement for contributions to settlement made pursuant to Article VI.A.

3. The Tribes may exercise their right to withdraw from the Compact under Article VII.A.2 by sending to the Governor of the State and to the Secretary by certified mail a resolution of the Tribal Council expressing the Tribes' intent to withdraw and specifying a reason for withdrawal and a withdrawal date not sooner than one hundred and twenty days from the date of the resolution. On the date designated in the resolution for Tribal withdrawal, the Compact shall become null and void without further action by any Party.

4. Notwithstanding any other provision in the Compact, the State reserves the unilateral right to withdraw as a Party to the Compact if:

a. Congress has not ratified this Compact within four years from the date on which the ratification of the Compact by the Montana Legislature takes effect under State law. This is a continuing right until Congress ratifies the Compact;

b. The Tribes have not ratified this Compact within five years from the date on which the ratification of the Compact by the Montana Legislature takes effect under State law;

c. Congress requires a State contribution to settlement that exceeds the contributions described in Article VI.A; or

d. Congress does not authorize and appropriate the Federal share of funding agreed to pursuant to Article VI.B.

5. The State may exercise its right to withdraw under Article VII.A.4 by sending to the Chair of the Tribal Council and to the Secretary a letter delivered by certified mail from the Governor of the State expressing the State's intent to withdraw and specifying a reason for withdrawal and a withdrawal date not sooner than one hundred and twenty days from the date of the letter. On the date designated in the letter for State withdrawal, the Compact shall become null and void without further action by any Party.

B. Incorporation into Decrees.

1. Within one hundred eighty (180) days of the date this Compact is ratified by the Tribes, the State, and the United States, whichever is latest, the Tribes, the State, and/or the United States shall file, in the general stream adjudication initiated by the State, pursuant to the provisions of 85-2-702(3), MCA, a motion for entry of the proposed decree attached hereto as Appendix 38 as the decree of the water rights held by the United States in trust for the Tribes, Tribal members, and the Allottees of the Tribes as well as those Water Rights Arising Under State Law set forth in Article III.D.4.a.i and Article III.D.5, of which the Tribes become co-owners pursuant to this Compact, and such other provisions of the Compact as are related to the determination of these water rights and their administration. If the Montana Water Court does not approve the proposed decree submitted with the motion within three years following the filing of the motion, the Compact shall be voidable by written agreement of the State and the Tribes. If the Montana Water Court approves the proposed decree within three years, but the decree is subsequently set aside by the Montana Water Court or on appeal, the Compact shall be voidable by written agreement of the State and the Tribes. Any effect of the failure of approval or setting aside of the decree on the approval, ratification, and confirmation by the United States shall be as provided by Congress. The Parties understand and agree that the submission of the Compact to a State court or courts, as provided for in the Compact, is solely to comply with the provisions of 85-2-702(3), MCA, and does not expand the jurisdiction of the State court or expand in any manner the waiver of sovereign immunity of either the United States or the Tribes in the McCarran Amendment, 43 U.S.C. 666, or other provision of Federal law.

2. Consistent with 3-7-224, MCA, setting forth the jurisdiction of the chief water judge, for the purposes of 85-2-702(3), MCA, the review by the Montana Water Court shall be limited to the contents of Appendix 38, and may extend to other sections of the Compact only to the extent that they relate to the determination of water rights and their administration. The final decree shall consist of the contents of Appendix 38, and such other information as may be required by 85-2-234, MCA. Nevertheless, pursuant to 85-2-702(3), MCA, the terms of the entire Compact must be included in the preliminary decree without alteration for the purpose of notice.

C. Disposition of State and Federal Suits.

1. On issuance of a final decree by the Montana Water Court or its successor, and the completion of any direct appeals therefrom, or on expiration of the time for filing any such appeal:

a. the United States, the Tribes, and the State shall execute and file joint motions pursuant to Rule 41(a), Fed.R.Civ.P., to dismiss without prejudice any and all claims of the Tribes, Tribal members, and Allottees and any and all claims made by the United States for the benefit of the Tribes, Tribal members, and Allottees in United States v. Abell, No. CIV-79-33-M (filed April 5, 1979). The case may only be resumed if either the State or the Tribes exercise the rights each holds under Article VII.A;

b. the Tribes and the State shall execute and file joint motions to dismiss without prejudice the case entitled Confederated Salish and Kootenai Tribes v. Bud Clinch, Director, Montana Department of Natural Resources and Conservation, and the Montana Department of Natural Resources and Conservation, Montana First Judicial Court, County of Lewis and Clark, Cause No. BDV-2001-253, Montana First Judicial District Court, Lewis and Clark County, Montana;

c. The United States, the Tribes, and the State shall execute and file joint motions pursuant to Rule 41(a), Mont.R.Civ.P., to dismiss without prejudice any and all claims of the Tribes, Tribal members, and Allottees and any and all claims made by the United States for the benefit of the Tribes, Tribal members, and Allottees that have been filed in the Montana Water Court as contemplated by Article VII.D.2. The case adjudicating those claims may only be resumed if either the State or the Tribes exercise the rights each holds under Article VII.A.2 and 4; and

d. The Decree shall be filed by the Parties as a consent decree in Abell, or in Federal court as a new proceeding after the dismissal of Abell conditional on agreement by the Parties to seek the necessary State, Tribal, and Federal ratification of the Compact, if it is finally determined in a judgment binding on the State that the State courts lack jurisdiction over, or that the State court proceedings are inadequate to adjudicate some or all of the water rights asserted in Abell.

D. Settlement of Water Rights Claims.

1. The water rights and other benefits confirmed to the Tribes in this Compact are in full and final satisfaction of and are intended to be in replacement of and substitution for all claims to water or to the use of water by the Tribes, Tribal members, and Allottees and the United States on behalf of the Tribes, Tribal members, and Allottees existing on the Effective Date, except for any Appropriation Rights or Water Rights Arising Under State Law held by the Tribes, their members, or Allottees as of the Effective Date or acquired thereafter, which shall be satisfied pursuant to their own terms.

2. The Tribes and United States will file all of their claims to water on and off of the Flathead Indian Reservation on or before July 1, 2015, pursuant to 85-2-702(3), MCA. Upon filing, the Tribes and United States will request that the Montana Department of Natural Resources and Conservation stay any action on such claims pending the occurrence of the following events:

a. The passage of an Act of Congress ratifying the Compact and authorizing appropriations for monetary settlement to the Tribes;

b. Approval by the Tribes of the Compact and the Act described in Article VII.D.2.a.

c. Issuance by the Montana Water Court of a final water right decree or decrees incorporating the water rights quantified pursuant to this Compact; and

d. All portions of the final Water Court decree or decrees survive exhaustion of all avenues of appeal.

3. Upon occurrence of these events, the waiver and dismissal described in Article VII.C.1.c and VII.D.3 shall be accomplished.

4. In consideration of the water rights and other benefits confirmed to the Tribes, Tribal members, and Allottees in this Compact, and of performance by the State and the United States of all actions required by this Compact, and on entry of a final order issuing the decree of the Tribal Water Right held in trust by the United States as quantified in this Compact and displayed in Appendix 38 and occurrence of the events set forth in Article VII.D.2, the Tribes and the United States as trustee for the Tribes, Tribal members, and Allottees shall waive, release, and relinquish any and all claims to water rights or to the use of water, and shall dismiss any such claims filed pursuant to Article VII.D.2, existing on the Effective Date.

E. Settlement of Tribal Claims Against the United States. Waiver of claims against the United States by the Tribes, their members and Allottees shall be as provided by Congress.

F. Binding Effect. After the Effective Date and the entry of a final decree by the Montana Water Court of the water rights quantified by this Compact, or if necessary the Federal court in Abell, the Compact's terms shall be binding on:

1. The State and any Person using, claiming or in any manner asserting any right under the authority of the State to the use of water in the State; provided that, the validity of consent, ratification, or authorization by the State is to be determined by State law;

2. The Tribes and any Person using, claiming or in any manner asserting any right to the use of the Tribal Water Right, or any right arising under any doctrine of reserved or aboriginal water rights for the Tribes, Tribal members, and Allottees, or any rights arising under Tribal law; provided that, the validity of consent, ratification or authorization by the Tribes is to be determined by Tribal and, if applicable, Federal law; and

3. The United States and any Person using, claiming or in any manner asserting any right under the authority of the United States to the use of water in the State; provided that, the validity of consent, ratification or authorization by the United States is to be determined by Federal law.

ARTICLE VIII - LEGISLATION/DEFENSE OF COMPACT

A. State Legislation. The State and the Tribes agree to seek ratification of the Compact by the Montana Legislature and any additional State legislation necessary to effectuate the Compact.

B. Federal Legislation. The State and the Tribes agree to seek ratification of the Compact by Congress and any additional Federal legislation necessary to effectuate the Compact.

1. The State and the Tribes will support provisions in the Federal legislation ratifying this Compact that authorizes the United States District Court for the District of Montana in Missoula to review decisions of the Board and the MFWP authorized in the Compact; provided that, the sovereign immunity of the United States is not waived by such provision of the legislation.

2. The State and Tribes will support provisions in the Federal legislation ratifying this Compact that authorizes the Net Power Revenues distributions described in Article IV.H.3.

3. The State and the Tribes will support provisions in the Federal legislation ratifying this Compact that delegates to the Secretary the authority to ratify future amendments on behalf of the United States pursuant to Article VII.A.1.

C. Tribal Legislation. The State and the Tribes agree to seek ratification of the Compact by the Tribes and any Tribal legislation necessary to effectuate the Compact.

D. Defense of the Compact. The Parties agree to defend the Compact after its Effective Date from all challenges and attacks and in all proceedings pursuant to Article VII.B and C.

IN WITNESS WHEREOF the representatives of the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States, have signed the Compact on the ____ day of ____, 201_.

Section 2. Unitary administration and management ordinance.

CHAPTER I

WATER RESOURCES CONSERVATION, DEVELOPMENT AND ADMINISTRATION

PART 1 - GENERAL PROVISIONS

1-1-101. Authority.

1. This Ordinance parallels legislation adopted by the Confederated Salish and Kootenai Tribes pursuant to Tribal approval of the Confederated Salish and Kootenai Tribes-Montana Compact and the Montana Water Use Act of 1973 to effectuate Unitary Administration and Management on the Flathead Indian Reservation.

2. This Ordinance and the parallel Tribal legislation are contingently effective; neither operates with the force and effect of law without the other. No modification by the Tribes or the State of Montana of these respective laws shall be effective within the exterior boundaries of the Reservation unless and until the other makes an analogous modification. No amendment of this Ordinance that may affect a use of the Tribal Water Right may be made without Secretarial approval.

3. Upon the Effective Date of the Compact, this Ordinance shall govern all water rights, whether derived from tribal, state or federal law, and shall control all aspects of water use, including all permitting of new uses, changes of existing uses, enforcement of water right calls and all aspects of enforcement within the exterior boundaries of the Flathead Indian Reservation. Any provision of Title 85, MCA, that is inconsistent with this Law of Administration is not applicable within the Reservation.

1-1-102. Reserved.

1-1-103. Reserved.

1-1-104. Definitions. Unless otherwise defined herein, capitalized terms used in this Ordinance shall have the meaning set forth in the Compact.

1. "Allottee" or "Allottees" means an owner of an interest in a tract of land held in trust by the United States which was allotted pursuant to the Act of April 23, 1904, 33 Stat. 302, as amended, or the Act of February 25, 1920, 41 Stat. 452, as amended.

2. "Appropriate" means to divert, impound, maintain an instream, inlake, inwetland or impoundment use, or withdraw a quantity of water for a beneficial use on the Flathead Indian Reservation under color of law.

3. "Appropriation" means the diversion, impoundment, maintenance of an instream, lake, Wetland, or impoundment use, or the withdrawal of a quantity of water for a Beneficial Use on the Flathead Indian Reservation under color of law.

4. "Appropriation Right" means a right to Appropriate water issued by the Water Management Board pursuant to the terms of the Compact and this Ordinance.

5. "Aquifer Injection" means the subsurface discharge of fluids into the ground by means of an Injection Well.

6. "Appropriator" means a Person who Appropriates water.

7. "Beneficial Use" means a consumptive or non-consumptive use of water for the benefit of the Appropriator, other Persons, the Tribes, one or more Tribal members, or the general public, including but not limited to agricultural, stock water, domestic, fish and wildlife, cultural and religious practices, industrial, Instream Flow, irrigation, mining, Mitigation Water, municipal, power, recreational uses, and Wetlands purposes.

8. "Business" means a building or site where commercial work is carried on, including but not limited to a factory, store, or office.

9. "Change in Use" means an authorized change in the point of diversion, the place of use, the period of use, the purpose of use, or the place of storage of an Appropriation Right issued by the Water Management Board under the Compact and this Ordinance, or of an Existing Use. A changed water right retains the original priority date of that right.

10. "Compact" means that water rights settlement entered into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States.

11. "Complainant" means one who files a Complaint.

12. "Complaint" means a written assertion of injury submitted to the Engineer pursuant to Section 3-1-102 of this Ordinance.

13. "Consumptive Use" means the amount of water used for a beneficial purpose, such as water transpired by growing vegetation, evaporated from soils or water surfaces, or incorporated into products, that does not return to the Groundwater or surface water source.

14. "Designee" means an individual selected by the Engineer to exercise, in regard to a particular application or objection, those powers assigned to the Engineer under Chapter II of this Ordinance. Any Staff is eligible to be selected as a Designee provided that he or she has not previously worked on the particular application or objection at issue.

15. "Developed Spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of Groundwater, from which Groundwater is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

16. "Development" means contiguous or closely grouped parcels of land under the same or affiliated ownership, including, but not limited to, housing subdivisions or any combination of business and residential units.

17. "DNRC" means the Montana Department of Natural Resources and Conservation, or any successor agency.

18. "Domestic Allowance" means an entitlement to use water issued to households and small businesses pursuant to the provisions of Section 2-2-117

of this Ordinance; Domestic Allowances include Individual Domestic Allowances, Shared Domestic Allowances, and Development Domestic Allowances.

19. "Domestic Use" means those water uses common to a household, including washing, drinking, bathing, waste disposal, cooling and heating, domestic animals, and garden and landscape irrigation. Domestic Use does not include the filling of ponds, pits, pit-dams or reservoirs.

20. "Effective Date" means the date on which the Compact is finally approved by the Tribes, by the State, and by the United States, and on which the Law of Administration has been enacted and taken effect as the law of the State and the Tribes, whichever date is latest.

21. "Emergency" means a situation that demands unusual or immediate action to prevent imminent injury to life, property, or the environment.

22. "Enclosed Storage" means a storage container fully enclosed to include a cistern or tank.

23. "Existing Use" means a use of water under color of Tribal, State or Federal law in existence as of the Effective Date, including uses in existence on that date that are eligible for either of the registration processes set forth in Sections 2-1-101 through 2-1-108 of this Ordinance; provided that any portion of a Water Right Arising Under State Law within the Reservation that is, at any point after the date the ratification of the Compact by the Montana Legislature takes effect under State law, voluntarily relinquished or is legally determined to be abandoned, relinquished, or have otherwise ceased to exist, shall be stricken from the relevant basin decree as a Water Right Arising Under State Law and be entitled to no further protection as such a right or as an Existing Use.

24. "Flathead Indian Irrigation Project" or "FIIP" means the irrigation project developed by the United States to irrigate lands within the Reservation pursuant to the Act of April 23, 1904, Public Law 58-159, 33 Stat. 302 (1904), and the Act of May 29, 1908, Public Law 60-156, 35 Stat. 441 (1908), and includes, but is not limited to, all lands, reservoirs, easements, rights-of-way, canals, ditches, laterals, or any other FIIP facilities (whether situated on or off the Reservation), head gates, pipelines, pumps, buildings, heavy equipment, vehicles, supplies, records or copies of records and all other physical, tangible objects, whether of real or personal property, used in the management and operation of the FIIP.

25. "FIIP Influence Area" means the lands influenced by the operations of the FIIP as identified on the map attached to the Compact as Appendix 2.

26. "Flathead Indian Reservation" or "Reservation" means all land within the exterior boundaries of the Indian Reservation established under the July 16, 1855 Treaty of Hellgate (12 Stat. 975), notwithstanding the issuance of any patent, and including rights-of-way running through the Reservation.

27. "Flathead System Compact Water" means that portion of the Tribal Water Right consisting of 229,383 acre feet per year that the Tribes may withdraw from the Flathead River or Flathead Lake, which includes up to 90,000 acre feet per year stored in Hungry Horse Reservoir, with a maximum total volume consumed of 128,158 acre feet per year.

28. "Groundwater" means any water that is beneath the surface of the earth.

29. "Groundwater Management Area" means an area designated and managed under Section 1-1-109 of this Ordinance.

30. "Heating/Cooling Exchange Well" means a Well for the purpose and with the attributes set forth in Section 2-2-119(1) of this Ordinance.

31. "Home" means a house, apartment, or other shelter that is a permanent or temporary residence of a Person, family, or household.

32. "Illegal" or "Illegally" means, as it pertains to the use of water, to Appropriate water not pursuant to an Appropriation Right or Existing Use.

33. "Injection Well" means a Well utilized for injecting fluids or gases into geologic materials. Open pits, ponds, or excavations are not considered Injection Wells.

34. "Instream Flow" means a stream flow retained in a watercourse to benefit the aquatic environment. Instream Flow may include Natural Flow or streamflow affected by regulation, diversion, or other modification. A water right for Instream Flow purposes is quantified for a stream reach and measured for enforcement purposes at a specified point.

35. "Livestock" means cattle, bison, sheep, swine, horses, mules, goats, or other animals specifically raised and used for food or fiber or as a beast of burden.

36. "Mitigation" means the reallocation of surface water or Groundwater through a Change in Use or other means to offset adverse effect resulting from Net Depletion by any proposed new Appropriation.

37. "Mitigation Plan" means a plan as developed by an applicant to provide Mitigation.

38. "NRD" means the Confederated Salish and Kootenai Tribes' Natural Resources Department.

39. "Natural Wetland" means a Wetland area that is maintained with a natural surface water source, natural Groundwater source or a combination of natural surface water and natural Groundwater without any artificial means of diversion, impoundment, withdrawal, excavation, or other artificial means of control.

40. "Net Depletion" means the calculated volume, rate, timing, and location of reductions to a water source resulting from a proposed new Appropriation that are not offset by the corresponding accretions to that source caused by the proposed new Appropriation.

41. "Non-consumptive Use" means any beneficial use of water that does not meet the definition of consumptive use.

42. "Other Instream Flows" means the Tribal instream flow water rights for stream reaches described in Article III.C.1.d.iii of the Compact.

43. "Office of the Engineer" means the Engineer and Staff, acting in their official capacities.

44. "Person" means an individual or any other entity, public or private, including the Tribes, the State, and the United States, and all officers, agents and departments of each sovereign.

45. "Pits, Pit-dams, Constructed Ponds, or Reservoirs" refer to bodies of water that are created by man-made means and which store water for beneficial use.

46. "Project Manager" means the person or team of persons hired by the Project Operator to operate and manage the FIIP in accordance with its direction, this and other applicable agreements, and applicable law, including the Compact.

47. "Project Operator" means that entity with the legal authority and responsibility to operate the Flathead Indian Irrigation Project.

48. "Public Water Supply System" means a system for the provision of water for human consumption that has at least 15 service connections or that regularly serves at least 25 Persons daily for any 60 or more days in a calendar year.

49. "Publish" or "Publication" means, unless otherwise designated, the printing of an announcement of document availability, or the text of the document itself, in a newspaper of general circulation on the Reservation and in the Tribal newspaper and posting on the Water Management Board's website.

50. "Redundant Well" means a Well to provide a backup source of water for a Public Water Supply System.

51. "Restored Natural Wetland" means a Wetland area that, upon restoration, shall be maintained with a natural surface water source, natural Groundwater source, or a combination of natural surface water and natural Groundwater without any artificial means of diversion, impoundment, withdrawal, excavation, or other artificial means of control.

52. "Secretary" means the Secretary of the United States Department of the Interior or the Secretary's duly assigned representative.

53. "Shall" means a mandatory and not a discretionary act.

54. "Shared Well" means a single Well that is physically manifold to multiple homes and/or businesses and is cooperatively used pursuant to a Shared Well Agreement.

55. "Shared Well Agreement" means a legally binding document that stipulates the manner in which a Shared Well is jointly used between or among all Homes or Businesses connected to the well; to be valid, it must be signed by representatives for each Person having a possessory interest in each individual Home or Business connected to a Shared Well.

56. "Spring" means a perennial hydrologic occurrence of water involving the natural flow of water originating from beneath the land surface and arising to the surface of the ground.

57. "Staff" means the employees, contractors and others assigned to or engaged by the Board or the Engineer to assist or facilitate the Engineer in carrying out the duties assigned to the Engineer by the Compact and this Ordinance, and by the Board pursuant to the same.

58. "Stock Tank" means a 30 to 1500 gallon tank used to provide drinking water for Livestock that is equipped with a water level regulator that shuts off supply to keep the Stock Tank from overflowing.

59. "Substitute Well" means a Well that replaces an existing Well which is to be abandoned.

60. "Temporary Emergency Appropriation" means the temporary beneficial use of water necessary to protect lives, property, or the environment, by reason of fire, storm, earthquake or other disaster, or unforeseen combination of circumstances which call for immediate action. An appropriation made necessary due to drought conditions is not a temporary emergency appropriation.

61. "Temporary Groundwater Management Area" means an area established pursuant to Section 1-1-109(10) of this Ordinance.

62. "Tribal Member" means a Person who is lawfully enrolled by and whose name appears on the official enrollment list of the Confederated Salish and Kootenai Tribes.

63. "Tribal Water Right" means the water rights of the Confederated Salish and Kootenai Tribes, including any Tribal member or Allottee, that arise under Federal law, as set forth in Article III.A, Article III.C.1.a through j, Article III.C.1.k.i, Article III.C.1.l.i, Article III.D.1 through 3, and Article III.D.7 and 8 of the Compact. The term "Tribal Water Right" also includes those rights identified in Article III.H of the Compact that are appurtenant to lands taken into trust by the United States on behalf of the Tribes.

64. "Tribes" means the Confederated Salish and Kootenai Tribes of the Flathead Reservation, and all officers, agencies, and departments thereof.

65. "Waste" or "Wasting" means the unreasonable loss of water resulting from the design, construction, operation or maintenance of a water diversion, storage or distribution facility, Well, Developed Spring, or the application of water to anything but a beneficial use.

66. "Water Engineer" or "Engineer" means the Person satisfying the criteria in Section 1-2-109 of this Ordinance employed by the Water Management Board pursuant to Article IV.I.5.c of the Compact to exercise the powers and duties of the Water Engineer as set forth in the Compact and this Ordinance.

67. "Water Management Board" or "Board" means the board created by Article IV.I of the Compact and vested with the responsibilities set forth in the Compact and in Tribal and State law for the administration of water within the Reservation.

68. "Water Rights Arising Under State Law" means those valid water rights Arising Under State Law existing as of the Effective Date and not subsequently relinquished or abandoned, as those rights are: decreed or to be decreed by the Montana Water Court pursuant to 85-2-234, MCA; permitted by the DNRC; exempted from filing in the Montana general stream adjudication pursuant to 85-2-222, MCA; or excepted from the permitting process pursuant to 85-2-306, MCA.

69. "Well" means any artificial opening or excavation in the ground, however made, by which Groundwater is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

70. "Well Log Report" means DNRC Form No. 603 (see ARM 36.12.102), or any successor reporting form and requirement promulgated in State law.

71. "Well Shaft Casing" means an impervious durable pipe placed in a well or Developed Spring to prevent the walls from caving, to seal off surface drainage, or undesirable water, gas, or other fluids to prevent their entering the well, and to prevent the Waste of Groundwater.

72. "Wetland" means an area that is inundated or saturated by surface water or Groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

73. "Wetland Quantified Appropriation Right" means an Appropriation Right issued for a Wetlands purpose that utilizes any man-made diversions, impoundment, withdrawals, excavations, or other artificial means for the purposes of appropriation for either all or a portion of a Wetland.

74. "Wetland Protective Appropriation Right" means an Appropriation Right issued for either a Natural Wetland or Restored Natural Wetland.

75. "Works" means all property, real or personal, necessary or convenient to the appropriation, conservation, storage, diversion, distribution, development, screening and utilization of water.

1-1-105. Measurement of Water. Upon the effective date of this Ordinance, legal standards of measurement of water within the Flathead Reservation shall be as follows:

1. Flow rates shall be measured in cubic feet per second, unless otherwise provided herein. Where documentary evidence of an existing use is expressed in gallons per minute, 448.8 gallons per minute shall be considered equivalent to a flow of one cubic foot per second. Where documentary evidence of an existing use is expressed in statutory or miner's inches, 40 statutory or miner's inches shall be considered equivalent to a flow of one cubic foot per second.

2. Volumes of water shall be measured in acre-feet, unless otherwise provided herein. One acre-foot shall be considered equivalent to a volume of 43,560 cubic feet. One cubic foot shall be considered equivalent to a volume of 7.48 gallons.

1-1-106. Measurement of Time. Whenever in this Ordinance an action is required to be performed within a certain number of days, the time for completion of the act shall be measured in calendar days unless the last day falls on a Friday, Saturday, Sunday, or Tribal, State or Federal legal holiday, in which case the time for performance is extended to the next subsequent business weekday.

1-1-107. Appropriation Rights Allowed.

1. The following Appropriation Rights or Changes in Use may be authorized by the Board pursuant to the Compact and this Ordinance:

a. Appropriation Rights for Groundwater appropriations for Redundant or Substitute Wells as set forth in Section 2-2-115 of this Ordinance.

b. Appropriation Rights for Stock Water Allowances as set forth in Section 2-2-116 of this Ordinance.

c. Appropriation Rights for Domestic Allowances as set forth in Section 2-2-117 of this Ordinance.

d. Appropriation Rights for uses of Flathead System Compact Water as set forth in Section 2-2-118 of this Ordinance.

e. Appropriation Rights for non-consumptive geothermal heating or cooling exchange Wells as set forth in Section 2-2-119 of this Ordinance.

f. Appropriation Rights for Temporary Emergency Appropriations as set forth in Section 2-2-120 of this Ordinance.

g. Appropriation Rights or Change in Use authorizations for Wetlands as set forth in Sections 2-2-123 and 2-2-124 of this Ordinance.

h. Appropriation Rights for Non-consumptive Uses, including, but not limited to, hydropower generation and not including flow-through ponds.

i. Appropriation Rights for which adverse effects to existing Appropriators are offset by Mitigation.

j. Changes in Use of all Appropriation Rights or Existing Uses except for those Appropriation Rights authorized under subsections (1)(a), (1)(b), (1)(c), (1)(e), (1)(f), (1)(k), or (1)(l) of this Section or those for Existing Uses exempt from the permitting requirements of 85-2-306, MCA, or from the claim filing requirements of 85-2-221, MCA, as set forth in 85-2-222, MCA; provided that a use authorized under subsection (1)(h) may not be changed from a Non-consumptive Use to a consumptive use.

k. Appropriation Rights to Appropriate surface water to conduct response actions related to natural resource restoration required for:

i. remedial actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.;

ii. aquatic resource activities carried out in compliance with and as required by the federal Clean Water Act of 1977, 33 U.S.C. 1251 through 1387; or

iii. remedial actions taken pursuant to the Remedial Action Upon Release of Hazardous Substance Act, Title 75, chapter 10, part 7, MCA.

No Appropriation Rights issued pursuant to this subsection may be used for dilution.

l. Appropriation Rights for uses of surface water for or by a municipality or regional distribution system.

m. Appropriation Rights for new uses of the Tribal Water Right by the Tribes, Tribal Members, or Allottees, provided that any such new uses be sourced from:

i. Flathead System Compact Water; or

ii. another source, provided that any adverse effects to existing Appropriators caused by the Net Depletion of the new Appropriation Right must be offset by Mitigation pursuant to Section 1-1-112 of this Ordinance.

2. Other than those Appropriation Rights set forth in subsection (1) of this Section, the Board may not grant an Appropriation Right or other authorization to Appropriate surface water or Groundwater within the exterior boundaries of the Flathead Indian Reservation.

1-1-108. Reservation Water Rights Database. The Board shall cause all Appropriation Rights and Changes in Use authorized by the Board, including those uses registered pursuant to the provisions of Sections 2-1-101 through 2-1-107 of this Ordinance, to be entered into the DNRC water rights database in a format agreed to by the Board and the DNRC.

1-1-109. Groundwater Management Areas. The Board may designate, modify, or repeal either permanent or Temporary Groundwater Management Areas as provided in this part.

1. Each designation of a Groundwater Management Area shall identify the need for the special management, the boundaries of the area, the water resources targeted for special management, and the specific restrictions that will apply in the Groundwater Management Area.

2. The designation, modification, or repeal of a Groundwater Management Area may be initiated by submission of a correct and complete petition by:

a. the Tribes, the State, or the United States;

b. a local public health agency;

c. a municipality, county, or conservation district; or

d. at least one-third of the water rights holders in a proposed Groundwater Management Area.

3. A correct and complete petition shall:

a. be in a form prescribed by the Board;

b. contain facts and analysis prepared by a hydrologist, hydrogeologist, qualified scientist, or a qualified licensed professional engineer demonstrating the existence of one or more of the criteria set forth in subsection (8) are met; and

c. describe proposed measures, if any, needed to mitigate effects of the criteria identified in subsection (8) of this Section; and that are alleged in the petition or describe the rationale as to why a Groundwater Management Area should be repealed or modified.

4. Upon receipt of a completed petition complying with subsection (3) of this Section, the Office of the Engineer shall date stamp the petition.

5. Office of the Engineer review:

a. within 180 days of the date of receipt of the petition pursuant to subsection (4) of this Section, the Office of the Engineer shall:

i. determine in writing that the petition is correct and complete; or

ii. notify the petitioner of any defects in a petition, with an explanation in writing of the defect(s).

b. any petition that is returned pursuant to subsection (5)(a)(ii) of this Section and not corrected within 90 days from the date of return shall be deemed terminated.

c. if the Office of the Engineer does not notify the petitioner pursuant to subsection (5)(a) of this Section, the petition shall be treated as correct and complete.

6. Board review:

a. within 60 days after a petition is determined to be correct and complete, the Board shall:

i. deny the petition in writing in whole or part, stating the reasons for denial;

ii. inform the petitioner in writing that the Board will study the information presented in the petition for a period not to exceed 90 days before denying or proceeding with the petition; or

iii. publish notice of the Board's consideration of action concerning a permanent or Temporary Groundwater Management Area pursuant to subsection (8) of this Section.

b. failure of the Board to act under subsection (6)(a) of this Section shall be deemed a denial of the petition.

7. If the Board determines that a correct and complete petition contains sufficient information to warrant the Board granting the petition, the Board shall proceed to hear the petition. The Board shall provide public notice of the hearing by:

a. publishing a notice at least once each week for 3 successive weeks, with the first notice not less than 30 days before the date of the hearing in a newspaper of general circulation on the Reservation;

b. serving by mail a copy of the notice, not less than 30 days before the hearing, upon each Person or public agency known from an examination of the records of the Board to be a water right holder within the proposed or existing Groundwater Management Area;

c. serving by mail a copy of the notice upon any other Person, including Tribal, State or federal agencies, that the Board knows to be interested in or affected by the proposed designation, modification, or repeal of a Groundwater Management Area.

d. the notice under subsections (7)(a) through (7)(c) must include a summary of the basis for the proposed action. Publication and mailing of the notice as prescribed in this Section, when completed, is considered to be sufficient notice of the hearing to all interested parties.

e. the Board shall make available to the public on its website a complete copy of the petition or request to designate, modify, or repeal either permanent or Temporary Groundwater Management Areas.

8. The Board may designate a permanent Groundwater Management Area if it finds by a preponderance of the evidence that any of the following criteria have been met:

a. current or projected reductions of recharge to the aquifer or aquifers within the boundaries of the proposed permanent Groundwater Management Area will cause Groundwater levels to decline to the extent that water rights holders cannot reasonably exercise their water rights;

b. current or projected Groundwater withdrawals from the aquifer or aquifers in the boundaries of the proposed Groundwater Management Area have reduced or will reduce Groundwater levels or surface water availability necessary for water rights holders to reasonably exercise their water rights;

c. current or projected Groundwater withdrawals from the aquifer or aquifers in the proposed permanent Groundwater Management Area have impaired or will impair Groundwater quality necessary for water right holders to reasonably exercise their water rights based on relevant water quality standards;

d. Groundwater within the proposed permanent Groundwater Management Area is not suitable for any beneficial use; or

e. public health, safety, or welfare is or will become at risk.

9. Monitoring and studies:

a. if the Board finds that sufficient facts, including monitoring information, are not available to designate a permanent Groundwater Management Area, the Board may designate a Temporary Groundwater Management Area to allow studies to obtain the facts needed to:

i. correct deficiencies that the Board identifies in a petition for a permanent Groundwater Management Area;

ii. determine the extent to which the criteria identified in subsection (8) are met or not met;

iii. determine appropriate control measures to implement to designate a permanent Groundwater Management Area.

b. the Board shall set the length of time that the Temporary Groundwater Management Area shall be in effect. The term of a Temporary Groundwater Management Area may be extended by the Board, but may not exceed a total of 6 years.

c. the Board shall determine the responsibility for funding the costs associated with subsection (9)(a). Any person on whom a funding responsibility is placed by the Board pursuant to this subsection may appeal that determination to a Court of Competent Jurisdiction, which shall review the determination for an abuse of discretion.

d. prior to designating a Temporary Groundwater Management Area, the Board shall provide notice and the opportunity for public hearing pursuant to the notice provisions of subsection (7) of this Section.

e. a Temporary Groundwater Management Area designation is for the purpose of monitoring and study and shall not include the control provisions set forth in subsection (10) of this Section, other than measurement, water quality testing, and reporting.

f. prior to expiration of a Temporary Groundwater Management Area, and subject to the limitations of subsection (9)(b) of this Section, the Board may amend or repeal the establishment of the Temporary Groundwater

Management Area, or may designate a permanent Groundwater Management Area under this Section.

10. A permanent Groundwater Management Area may include, but is not limited to, one or more of the following provisions:

a. closing the permanent Groundwater Management Area to further appropriation of surface water and/or Groundwater;

b. restricting the development of future surface water and/or Groundwater appropriations within the permanent Groundwater Management Area;

c. prohibiting or restricting the issuance of Stock Water Allowances pursuant to Section 2-2-116 of this Ordinance;

d. prohibiting or restricting the issuance of Domestic Allowances pursuant to Section 2-2-117 of this Ordinance;

e. requiring measurement and reporting of future surface water or Groundwater appropriations within the permanent Groundwater Management Area;

f. requiring water conservation measures within the permanent Groundwater Management Area;

g. requiring mitigation of Groundwater withdrawals within the permanent Groundwater Management Area;

h. reporting data to the Board within the permanent Groundwater Management Area; and

i. other provisions that the Board determines are appropriate and adopts.

11. The Board, upon petition, may modify or repeal a Groundwater Management Area. Any petition seeking the modification or repeal of a permanent Groundwater Management Area must demonstrate by a preponderance of the evidence that current or projected recharge to the aquifer or aquifers or changes to current or projected Groundwater withdrawals from the aquifer or aquifers in the boundaries of an existing Groundwater Management Area justify modification or repeal of that Groundwater Management Area.

12. Appeal from any final decision of the Board concerning the designation, modification or repeal of any permanent Groundwater Management Area pursuant to this Section shall be as set forth in Section 2-2-112 of this Ordinance.

13. If the Board determines that it is appropriate for a Groundwater Management Area identified pursuant to this section to extend to an area adjacent to but outside the boundaries of the Reservation, the Board, through the Office of the Engineer, may petition the DNRC, pursuant to 85-2-506(2)(c)(i), MCA, to designate a Controlled Groundwater Area in that adjacent area. Designation or modification by the DNRC of a Controlled Groundwater Area in any such adjacent area shall be governed by the procedures set forth in 85-2-506, MCA.

1-1-110. Standards for Applications for Appropriation Rights and Changes in Use. For any application for an Appropriation Right or Change in Use that is not one of the categories of Appropriation Right identified in Sections 1-1-112(1) or 2-2-118 of this Ordinance, in addition to whatever information is required by specific provisions of the Ordinance, all applications for Appropriation Rights and Changes in Use must include:

1. An identification of the proposed beneficial use.

2. An identification of the source of water supply.

3. A project description, including an identification of any water right(s) to be changed to a new use, if applicable.

4. A legal description of the point of diversion and the place of use.

5. The monthly volume(s) and flow rate(s) of the water supply to be diverted, withdrawn, or impounded, and the monthly volume(s) to be consumed; however the Office of the Engineer may require a more frequent quantification time step.

6. The monthly historic diverted, withdrawn, or impounded volume(s) and flow rate(s) and the historically consumed volume(s) of the water right(s) to be changed to a new use, if applicable; however, the Office of the Engineer may require a more frequent quantification time step.

7. The calculations, references and methodologies used to determine the volume(s) and flow rate(s) in subsections (5) and (6) above.

8. Identification of physical water availability and existing legal demands on the source of supply of water.

9. Evidence that the proposed means of diversion, construction, and operation of the appropriation Works are adequate.

10. Evidence of possessory interest or the written consent of the person with the possessory interest in the property where the water is to be put to beneficial use, diverted, conveyed, impounded, stored, transported, withdrawn, used, and distributed.

11. Information showing that the water quantity or quality of an Appropriator will not be adversely affected, if applicable.

12. A United States Geological Survey (USGS) quadrangle map or United States Department of Agriculture (USDA) aerial photo must be included with the application.

a. The following items shall be clearly identified on the map:

(1) North arrow;

(2) Scale bar;

(3) Section corners and numbers;

(4) Township and range numbers;

(5) Property lines and ownership;

(6) Source(s);

(7) Point(s) of diversion;

(8) Means of conveyance;

(9) Place(s) of use;

(10) Place(s) of storage, if applicable:

(11) Surface water features;

(12) Measurement and instrument locations associated with the application; and

(13) The place(s) of use of all associated and supplemental water rights.

b. If the application is for a Change in Use, the site map shall also show the historic point(s) of diversion, place(s) of use, and place(s) of storage, as applicable.

c. Additional maps shall be submitted if the information on one map cannot convey the required information clearly and shall be of the same scale so the maps can be overlain.

1-1-111. Groundwater Diversion Standards

1. Wells:

a. Persons that drill, make, or construct Wells, including monitoring Wells, on the Reservation shall comply with Title 37 Chapter 43, MCA, and ARM 36 Chapter 21 licensing, conduct, and regulatory requirements, or any successor provisions promulgated in State law.

b. All Well construction on the Reservation shall meet the standards set forth in ARM 36 Chapter 21, or any successor provisions promulgated in State law.

c. Construction and operations of all Wells must comply with all applicable federal, State, Tribal, and local environmental regulations.

2. Developed Springs:

a. All Developed Spring collection components, including but not limited to infiltration galleries, infiltration basins, and French drains, shall be installed and buried under the surface of the ground.

b. All means of storage and conveyance, including but not limited to supply pipes, cisterns, and pump housings, shall be sealed and made impervious to water and designed in a manner that protects the source from backflow and surface contamination.

c. Open pits, ponds, or excavations shall not be used as a means of diversion for Developed Springs.

d. Construction and operation of all Developed Springs must comply with all applicable federal, State, Tribal, and local environmental regulations.

3. Aquifer Injection and Injection Wells are not allowed except when used exclusively for Heating/Cooling Exchange Wells.

1-1-112. Mitigation

1. Unless any provision of a Groundwater Management Area established pursuant to Section 1-1-109 of this Ordinance specifically requires Mitigation for any of the following categories of Appropriation Rights, Mitigation is not required for Appropriation of:

a. Redundant or Substitute Wells pursuant to Section 2-2-115 of this Ordinance;

b. Stock Water Allowances pursuant to Section 2-2-116 of this Ordinance;

c. Domestic Allowances pursuant to Section 2-2-117 of this Ordinance;

d. Heating/Cooling Exchange Wells pursuant Section to 2-2-119 of this Ordinance;

e. Temporary Emergency Appropriations pursuant to Section 2-2-120 of this Ordinance; or

f. Short-term uses of an Appropriation Right pursuant to Sections 2-2-121 and 2-2-122 of this Ordinance.

2. Mitigation is not required for Appropriation of Flathead System Compact Water Pursuant to 2-2-118 of this Ordinance.

3. Any Appropriation Right that results in a Net Depletion of either surface water or Groundwater shall offset the entire Net Depletion that results in adverse effect to any Appropriator through the use of Mitigation pursuant to a Mitigation Plan.

4. An adverse effect to a Wetland Protective Appropriation Right recognized in Article III.C.1.f of the Compact or a Wetland Protective Appropriation Right issued pursuant to Section 2-2-123 of this Ordinance that requires Mitigation shall include, but is not limited to, a water supply alteration that would cause:

a. reductions of the Wetland boundary in excess of the normal range of variability in water; or

b. unnatural Wetland plant community change.

5. A Mitigation Plan must include:

a. a plan of use for the proposed Appropriation Right for which the Mitigation Plan is required;

b. an identification of the location, volume, and timing (by monthly or more frequent time step as determined by the Engineer) of the adverse effect to be mitigated;

c. if necessary, evidence that an application for a Change in Use has been submitted;

d. the amount of water reallocated through exchange or substitution that is required to mitigate the adverse effect;

e. evidence that the water for Mitigation is legally and physically available;

f. evidence of how the Mitigation Plan will offset the Net Depletion in a manner that will offset any adverse effect to any Appropriator; and

g. evidence that the necessary water quality permits, if any, have been applied for pursuant to the Tribal Water Quality Management Ordinance.

6. No applicant for an Appropriation Right shall be required to provide more Mitigation than the quantity needed to offset the adverse effects of that proposed new Appropriation Right on any Appropriator.

7. Compliance with a Mitigation Plan and proof of any water quality permit(s) issued pursuant to the Tribal Water Quality Management Ordinance, if applicable, must be included as a written condition on any Appropriation Right or Change in Use authorization that is conditioned on Mitigation.

8. If compliance with a Mitigation Plan or any applicable water quality permit(s) issued pursuant to the Tribal Water Quality Management Ordinance ceases or terminates, the holder of the Appropriation Right conditioned on compliance with the Mitigation Plan shall immediately notify the Office of the Engineer, and use of the Appropriation Right shall be suspended immediately until a new Mitigation Plan is approved and implemented pursuant to this Ordinance.

1-1-113. Codification, Severability and Defense.

1. The provisions of this Ordinance are severable, and a finding of invalidity of one or more provisions hereof shall not affect the validity of the remaining provisions.

2. This Ordinance is intended to function in conjunction with the legislation adopted by the Confederated Salish and Kootenai Tribes pursuant to Tribal approval of the Confederated Salish and Kootenai Tribes-Montana Compact and the Montana Water Use Act of 1973 to effectuate Unitary administration and Management on the Flathead Indian Reservation. Should those portions of the parallel Tribal Legislation be amended by subsequent legislation without contemporaneous and materially identical State amendment to this Ordinance, this Ordinance shall govern the use of waters within the Reservation, irrespective of the amended provisions of Tribal law, until such time as the laws of the Tribes and the State are rendered mutually consistent. Similarly, should this Ordinance be amended without contemporaneous and materially identical amendment of the provisions adopted into Tribal law, those pre-existing provisions of Tribal law shall govern the use of waters within the Reservation,

irrespective of the amended provisions, until such time as the laws of the Tribes and the State are rendered mutually consistent.

3. Any amendment to this Ordinance that is approved by the Tribes, the State and the Secretary is pursuant to, and shall not be deemed a modification of, the Compact.

4. The State adopts this Ordinance only after concluding its provisions are lawful. Should the legality of the Ordinance, or parallel Tribal legislation, or any provision thereof be challenged in any court, the parties shall use their best effort jointly to defend the enforceability of the Ordinance, the parallel Tribal legislation and each of the respective provisions.

1-1-114. Effective Date. This Ordinance and each provision hereof according to its terms shall take on the Effective Date of the Compact.

PART 2 - UNITARY ADMINISTRATION AND MANAGEMENT

1-2-101. Purpose. The purpose of this Part is to establish the processes applicable to all surface and Groundwater use within the exterior boundaries of the Flathead Indian Reservation.

1-2-102. Establishment and Composition of the Water Management Board. Pursuant to Article IV.I of the Compact, the Water Management Board is established.

1-2-103. Qualifications of Board Members. As set forth in Article IV.I.2.f of the Compact:

1. A Board member shall be over 18 years of age.

2. A Board member shall be a Reservation resident, which means, for the purposes of filling a position on the Board, an individual who:

a. does business within Flathead Indian Reservation boundaries,

b. is domiciled within Flathead Indian Reservation boundaries, or

c. owns and maintains a seasonal residence within Flathead Indian Reservation boundaries.

3. No elected official of the State of Montana, or any political subdivision thereof, or of the United States, or of the Tribes is eligible for nomination to the Board while holding such elective office. However, a nominee for Board membership shall not be disqualified by reason of the fact that he or she is an employee or contractor of the State of Montana or any political subdivision thereof, or of the Tribes, or of the United States.

4. A Board member shall have education and experience in one or more of the following fields: natural resources management, public administration, agriculture, engineering, commerce or finance, hydrology, biological sciences, water law or water policy.

5. No Board member may vote on any application or appeal that the member participated in personally and substantially in any non-Board capacity.

1-2-104. Public Meetings and Records. As set forth in Article IV.I.7 of the Compact:

1. Notwithstanding any other provisions of law, the Board is a public agency for purposes of the applicability of State and Tribal right to know laws.

2. All regular and special meetings of the Board, including all hearings conducted by the Office of the Engineer or the Board pursuant to the provisions of Chapter 2 Part 2, and Chapter 3 of this Ordinance, shall be open to the observation of the general public pursuant to State and Tribal open meeting laws. Where there is a conflict of laws, the law that provides for greater openness to the public applies.

3. Where no more specific notice provisions are set forth in this Ordinance, notice of any meeting, including a draft agenda, shall be provided to the public in a manner and on a timeframe consistent with the criteria set forth in State and Tribal law. Where there is a conflict of laws, the law that provides for earlier notice shall apply.

4. The Board shall keep the following records:

a. minutes of all meetings;

b. recordings of all hearings conducted by the Board or the Office of the Engineer pursuant to the provisions of Chapter 2 Part 2, and Chapter 3 of this Ordinance;

c. all documents filed with or generated by the Board or the Office of the Engineer pursuant to this Ordinance;

d. any other records required by applicable provisions of State or Tribal law, provided that if there is a conflict of laws, the law that provides for more expansive record retention shall apply.

5. All Board records are public records and shall be made available to the public for inspection under such reasonable terms and conditions as the Board shall establish.

1-2-105. Compensation and Expenses of the Board. As set forth in Article IV.I.2.h of the Compact, each Board member shall receive such compensation for services and reimbursement for expenses for attendance at Board meetings as shall be fixed by the State and the Tribal Council for the Board members appointed by the same. The compensation for the fifth Board member shall set jointly by the State and the Tribal Council. The compensation and expenses of the Federal ex officio member shall be paid by the United States.

1-2-106. Quorum and Voting of the Board. As set forth in Article IV.I.3 of the Compact, four voting members of the Board shall constitute a quorum. No Board action may be voted upon in the absence of a quorum. All Board decisions shall be by affirmative vote of a majority of the Board. If a proposal put to a vote of a quorum of Board members ends in a tie vote, the proposal, or matter under consideration is deemed disapproved or denied.

1-2-107. Powers and Duties of the Board.

1. The Board shall have those powers and duties set forth in Article IV.I.4 and 5 of the Compact and in this Ordinance, including those powers necessary and proper to carry out all Board responsibilities as set forth in the Compact and this Ordinance.

2. As set forth in the Compact, the Board shall have exclusive jurisdiction to resolve any controversy as between the Parties or between or among holders of Appropriation Rights and Existing Uses on the Reservation over the meaning and interpretation of the Compact and this Ordinance.

1-2-108. Technical Assistance to the Board and the Engineer. The NRD and the DNRC shall, within the limits of their respective expertise and resources, and when so requested by the Board or the Office of the Engineer, collect, compile, and analyze information related to waters of the Reservation, their use, and the Works associated with their use, and produce reports and provide technical assistance and advice to the Board or the Office of the Engineer.

1-2-109. Qualifications of the Water Engineer.

1. The Water Engineer shall be a professional in one or more of the following water resources or management related fields:

a. water resources management;

b. hydrology;

c. hydrogeology;

d. environmental science;

e. business or public administration;

f. biological science;

g. civil engineering;

h. environmental engineering; or

i. law.

2. The Water Engineer shall have a minimum of a bachelor's degree with 10 years of increasingly responsible experience, including three years of management experience, or a master's degree with seven years of increasingly responsible experience, including three years of management experience, or an appropriate combination of education and experience.

3. The Water Engineer shall have the skill to deal with a diverse and sometimes contentious public.

4. The Water Engineer shall have the ability to:

a. successfully manage the water resources staff;

b. provide technical assistance to the Board; and

c. act as a hearings officer and document decisions and orders in writing.

1-2-110. Duties of the Engineer. The Engineer shall be an employee of the Board and shall exercise the duties set forth in the Compact and this Ordinance, and as assigned by the Board pursuant to the Compact and this Ordinance. These duties include, but are not limited to:

1. The administration of water rights on the Reservation, and the enforcement of the terms of this Ordinance and the conditions of all Appropriation Rights, determinations, orders, regulations, plans, policies, guidelines, and other actions taken by the Engineer or the Board, pursuant to the Compact and this Ordinance;

2. Coordination with the Project Manager, as far as practicable, of the operations of the FIIP with the administration and enforcement of water rights outside of the FIIP;

3. The supervision and management of Staff; and

4. The development and submission to the Board of budget requests for approval by the Board and forwarding to the Tribes and State for the purpose of securing necessary appropriations.

1-2-111. Immunity from Suit. Members of the Board, the Engineer, any Designee, any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, and any Staff shall be immune from suit for damages arising from the lawful discharge of an official duty associated with the carrying out of powers and duties set forth in the Compact or this Ordinance relating to the authorization, administration or enforcement of water rights on the Reservation.

1-2-112. Filing Fees. A filing fee shall be paid at the time an application is filed with the Office of the Engineer under Section 2-1-107, 2-2-104, 2-2-115, 2-2-116, 2-2-117, 2-2-118, 2-2-119, 2-2-123, or 2-2-124 of this Ordinance. The amount of the fee shall be the same as the fee charged by DNRC for the same type of application under State law, as those fees may be modified from time to time by the DNRC. The Board shall post notice of the applicable amount of these fees at the Office of the Engineer and on the Board's website.

CHAPTER II WATER USE

PART 1. GENERAL PROVISIONS

2-1-101. Registration of Uses of the Tribal Water Right in Existence as of the Effective Date of the Compact.

1. Pursuant to Article III.C.1.b of the Compact, the Tribes, each Tribal Member, and each Allottee who claims to have an Existing Use of waters of the Reservation which is part of the Tribal Water Right shall file a registration of Existing Use of the Tribal Water Right with the Engineer. Uses of the Tribal Water Right for which abstracts are appended to this Compact, including uses on the FIIP, are exempt from this registration requirement.

2. Historically irrigated allotments with serviceable delivery systems that are held by individuals and in trust by the United States, and are not served by the FIIP, shall be eligible to be registered pursuant to the provisions of Sections 2-1-101 et seq. of this Ordinance even if such allotments are not being irrigated on the Effective Date of the Compact.

3. The NRD shall provide assistance to the Tribes, Tribal Members, and Allottees in preparing registrations of Existing Uses of the Tribal Water Right for filing.

4. No Tribal Member or Allottee may exercise, for the same water use, both a registration of Existing Use of the Tribal Water Right and a Water Right Recognized Under State Law.

2-1-102. Process for Registration of Existing Use of the Tribal Water Right.

1. The Tribes, Tribal Members, and Allottees claiming a use of water that falls under the terms of Section 2-1-101 of this Ordinance shall, within five years of the Effective Date of this Ordinance, file a Registration Form with the Board documenting the registration of Existing Use of the Tribal Water Right and identifying:

a. the rate and volume of water used;

b. the source of supply for the use;

c. the point of diversion by legal land description;

d. the place of use by legal land description;

e. the period of use

f. the period of diversion;

g. the place of storage (if applicable);

h. the capacity of storage (if applicable);

i. the purpose; and

j. the means of diversion.

2. Upon receipt, the Board shall transmit the Registration Form to the Office of the Engineer.

3. Upon receipt of the Registration Form, the Office of the Engineer shall review the Registration Form within 180 days and may either issue a Registration Certificate or return a defective Registration Form to the filer, together with the reasons for returning it. Upon receiving a corrected Registration Form, the Office of the Engineer has 90 days from the certified receipt of the corrected Registration Form to issue a Registration Certificate or reject the registration. If the Office of the Engineer neither issues a Registration Certificate nor rejects the registration within the initial 180 day review period, the Registration Form shall be deemed approved and the Board shall issue a Registration Certificate. If the Office of the Engineer neither issues a

Registration Certificate nor rejects the registration within 30 days of certified receipt of a corrected Registration Form, the Registration Form shall be deemed approved and the Board shall issue a Registration Certificate.

4. Any Person filing a Registration Form or a corrected Registration Form with the Office of the Engineer pursuant to subsections (1) and (3) of this Section who is dissatisfied with the rejection of that corrected Registration Form by the Office of the Engineer pursuant to subsection (3) of this Section may appeal that rejection to the Board by filing a notice of appeal to the Board within 30 days of the rejection of the corrected Registration Form. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped.

5. Any appeal to the Board filed pursuant to subsection (4) of this Section shall be conducted pursuant to the provisions of Section 3-1-104 of this Ordinance.

2-1-103. Fee for Filing Registration of Existing Use of the Tribal Water Right. The Board shall not charge a fee for the processing of registrations or corrected registrations of Existing Uses of the Tribal Water Right.

2-1-104. Tribal Member and Allottee Entitlements Pursuant to 25 U.S.C. Section 381. All Tribal Members' and Allottees' entitlements pursuant to 25 U.S.C. Section 381 are hereby recognized and confirmed. The attributes of these entitlements shall be defined through either:

1. the process set forth in Section 2-1-101 et seq. of this Ordinance, if the Tribal Member or Allottee with an entitlement pursuant to 25 U.S.C. Section 381 also has a use of water eligible for the registration process set forth in those sections of this Ordinance; or

2. by applying for a New Appropriation as provided in Section 2-2-101 et. seq. of this Ordinance or by applying to develop a use of Flathead System Compact Water as provided in Section 2-2-118 of this Ordinance, if the Tribal Member or Allottee with an entitlement pursuant to 25 U.S.C. Section 381 does not have a use of water eligible for the registration process set forth in Section 2-1-101 et seq. of this Ordinance.

2-1-105. Tribal, Tribal Member and Allottee Challenge of a Registration Certificate Issued by the Office of the Engineer. The Tribes, Tribal Members, and Allottees may seek judicial review of any final decision by the Board pursuant to Section 2-1-102(4) of this Ordinance by filing a petition for judicial review with the Tribal Court of the Tribes within 30 days of the issuance of the final Board decision. In considering the petition, the Board's legal conclusions shall be reviewed for correctness and its factual findings for abuse of discretion.

2-1-106. Registration of Certain Other Previously Unrecorded Existing Uses. Persons who have Existing Uses on the Reservation as of the effective date of this Ordinance shall register such Existing Uses with the Board if those uses:

1. Were not required to be filed, pursuant to 85-2-222, MCA, and in fact were not filed as claims in the Montana General Stream Adjudication for a pre-1973 use of water arising under State law; or

2. Were developed on or after July 1, 1973, at a volume and flow rate that would qualify as an exception to the permit requirements of 85-2-306, MCA, and for which a notice of completion of Groundwater development (DNRC Form 602) or an application for provisional permit for completed Stock Water pit or

reservoir (DNRC Form 605) was filed with the DNRC but not processed by the DNRC.

3. Were developed after July 1, 1973, at a volume and flow rate that would qualify as an exception to the permit requirements of 85-2-306, MCA, and for which a notice of completion of Groundwater development (DNRC Form 602) or an application for provisional permit for completed Stock Water pit or reservoir (DNRC Form 605) was not filed with the DNRC.

2-1-107. Process for Registration of Certain Other Previously Unrecorded Existing Uses.

1. Each Person claiming an Existing Use of water that falls under the terms of Section 2-1-106 of this Ordinance shall, within 180 days of the effective date of this Ordinance, file a Registration Form with the Board documenting that the Existing Use is for a purpose and with a flow rate and volume that falls within the terms of Section 2-1-106, and identifying:

a. the date of first use of the water;

b. the source of supply for the use;

c. the point of diversion by legal land description;

d. the place of use by legal land description; and

e. the period of use.

2. Within 30 days of the Effective Date, the DNRC shall transmit to the Board all filed but not processed completion notices (DNRC Form 602 or 605) it has received for water uses excepted from the permitting requirements of State law developed within the boundaries of the Reservation after August 22, 1996. The transmission of these notices shall constitute compliance with Section 2-1-107(1) of this Ordinance for those uses eligible for registration pursuant to Section 2-1-106(2) of this Ordinance. No additional fee shall be required for the processing of the forms transmitted by the DNRC.

3. Upon receipt, the Board shall transmit the Registration Form to the Office of the Engineer.

4. Upon receipt of the Registration Form, the Office of the Engineer shall review the Registration Form within 180 days and may either issue a Registration Certificate or return a defective Registration Form to the filer, together with the reasons for returning it. If a corrected Registration Form is submitted within 30 days of its return by the Engineer, no new filing fee shall be required. Upon receiving a corrected Registration Form, the Office of the Engineer has 90 days from the certified receipt of the corrected Registration Form to issue a Registration Certificate or reject the registration. If the Office of the Engineer neither issue a Registration Certificate nor rejects the registration within the initial 180 day review period, the Registration Form shall be deemed approved and the Board shall issue a Registration Certificate. If the Office of the Engineer neither issues a Registration Certificate nor rejects the registration within 90 days of certified receipt of a corrected Registration Form, the Registration Form shall be deemed approved and the Board shall issue a Registration Certificate.

5. For any use registered under Section 2-1-106(1) of this Ordinance, the priority date of the use shall be the date of first beneficial use, and such a date shall be reflected on the Registration Certificate.

6. For any use under Section 2-1-106(2) of this Ordinance, the priority date for the use shall be the date of filing of the appropriate form, and such a date shall be reflected on the Registration Certificate.

7. For any use under Section 2-1-106(3) of this Ordinance, the priority date for the use shall be the Effective Date of the Compact, and that date shall be reflected on the Registration Certificate.

8. Any Person filing a corrected Registration Form with the Office of the Engineer pursuant to subsection (2) of this Section who is dissatisfied with the rejection of that corrected Registration Form by the Office of the Engineer pursuant to subsection (2) of this Section may appeal that rejection to the Board by filing a notice of appeal to the Board within 30 days of the rejection of the corrected Registration Form. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped.

9. Any appeal to the Board filed pursuant to subsection (6) of this Section shall be conducted pursuant to the provisions of Section 3-1-104 of this Ordinance.

2-1-108. Failure to Register an Existing Use of Water. Failure to register an Existing Use that is subject to registration as provided for under Sections 2-1-101, 2-1-102, and 2-1-106(2) and (3) of this Ordinance, shall divest the holder of the Existing Use of any legal protections otherwise afforded under the Compact and this Ordinance, to the extent not inconsistent with federal law.

2-1-109. Limitation to Beneficial Use. Beneficial use shall be the basis, measure and limit to Appropriation Rights issued pursuant to this Ordinance.

2-1-110. No Adverse Possession. No right to use water within the Reservation may be acquired by prescription or by adverse possession of use.

2-1-111. Abandonment of Appropriation Right.

1. No part of the Tribal Water Right is subject to abandonment by nonuse.

2. If an Appropriator, other than a user of any portion of the Tribal Water Right, ceases to use all or a part of an Appropriation Right, or any Existing Use, with the intention of wholly or partially abandoning the right, or if the appropriator ceases using the right according to its terms and conditions with the intention of not complying with those terms and conditions, the Appropriation Right or Existing Use is, to the extent of the nonuse, considered abandoned and must immediately expire.

3. If an Appropriator, other than a user of any portion of the Tribal Water Right, ceases to use all or part of an Appropriation Right or Existing Use, or ceases using the Appropriation Right or Existing Use according to its terms and conditions for a period of 10 successive years and there was water available for use, there is a prima facie presumption that the Appropriator has abandoned the right for the part not used.

4. If an Appropriator ceases to use all or part of an Appropriation Right or Existing Use in compliance with a candidate conservation agreement initiated pursuant to 50 CFR 17.32 or because the land to which the water is applied to a beneficial use is contracted under a state, tribal, or federal conservation, mitigation, or set-aside program:

a. the land set-aside and resulting reduction in use of the Appropriation Right or Existing Use from the conservation, mitigation, or set-aside program shall not be construed as an intent by the appropriator to wholly or partially abandon the Appropriation Right or Existing Use or to not comply with the terms and conditions attached to the right; and

b. the period of nonuse that occurs for part or all of the Appropriation Right or Existing Use as a result of the conservation, mitigation, or set-aside program shall not create and shall not be added to any previous period of nonuse to create a prima facie presumption of abandonment.

2-1-112. Procedure for Declaring Abandonment.

1. An Appropriator who claims to have been or alleges will be injured by the resumption of use of an Appropriation Right or Existing Use alleged to have been abandoned may file a petition with the Office of the Engineer to declare the Appropriation Right or Existing Use abandoned in whole or in part. Upon receipt of the petition, the Office of the Engineer shall date stamp it.

2. If the Engineer or Designee finds that the petition provides enough information to give rise to a question of abandonment, the petition shall be posted on the Board's website within 10 working days of the determination of validity. If the Engineer or Designee finds that the petition fails to provide enough information to give rise to a question of abandonment, the petition shall be rejected.

3. Upon a finding of validity pursuant to subsection (2) of this Section, a hearing shall be set within 180 days of the determination of validity, or any extended period of time, not to exceed 90 days, granted by the Engineer, for the Engineer or Designee to determine whether the Appropriation Right or Existing Use has been abandoned. Discovery prior to hearing will be as provided by the Engineer or Designee, and may commence following the notice of the hearing.

4. The owner of the right alleged to have been abandoned shall be personally served notice of the hearing by the Office of the Engineer and the hearing shall be publicly noticed by the Office of the Engineer once via a legal notice in a local newspaper of general circulation and posted by the Office of the Engineer on the Board's website for a period of 10 days commencing not less than 30 days from the date of the hearing.

5. At the hearing on the petition, the burden of proof shall be on the petitioner who must prove by a preponderance of the evidence that the Appropriation Right or Existing Use has been abandoned pursuant to Section 2-1-111 of this Ordinance, unless a prima facie presumption of abandonment has arisen pursuant to Section 2-1-111(3). In such circumstances, the burden of proof is shifted to the owner of the right alleged to have been abandoned, who must prove by a preponderance of the evidence a lack of intent to abandon the right in question.

6. The hearing shall be recorded electronically and an official record maintained. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

7. A written decision by the Engineer or Designee shall be rendered within 60 days of the hearing, disseminated to the parties, and posted by the Office of the Engineer on the Board's website within 10 days of its issuance. If the individual who conducted the hearing becomes unavailable to the Office of the Engineer, a decision may be prepared by an individual who has read the record only if the demeanor of witnesses is considered immaterial by all parties; if any party considers the demeanor of any witness to be material to the resolution of the appeal, a new hearing must be held.

8. Any party to the abandonment hearing dissatisfied with the decision of the Engineer or Designee may appeal to the Board (and become an appellant) and obtain review of the Engineer's or Designee's decision. A notice of appeal to the Board must be filed with the Board within 30 days of the Engineer's or Designee's decision. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped.

9. Appeal to the Board pursuant to subsection (8) of this Section, shall be made and resolved pursuant to the provisions of Section 2-2-111 of this Ordinance.

10. Any petitioner whose petition is rejected by the Engineer or Designee as failing to provide enough information to give rise to a question of abandonment may appeal the Engineer's decision to the Board pursuant to the provisions of Section 3-1-104 of this Ordinance.

2-1-113. Prevention of Waste and Interference with Lawful Use.

1. Waters within the Reservation may not be wasted, nor may water be used unlawfully, nor may a lawful use of water be interfered with.

2. All facilities, Works and equipment associated with the withdrawal, impoundment, pumping, diversion, drainage, or transmission of waters on the Reservation shall be so constructed, installed, and maintained as to prevent the Waste, contamination, or pollution of surface and Groundwater and to avoid injury to the lands and property of others. All wells, producing and non-producing, which may contaminate other surface or Groundwater must be properly abandoned or upgraded with a sanitary seal, in accordance with the water well criteria incorporated by reference in Section 1-1-111 of this Ordinance. All flowing wells shall be capped or equipped with valves so that the flow of water can be stopped when the water is not being put to beneficial use.

3. The Board, on its own initiative or through the Office of the Engineer, may require the recipient of any Appropriation Right issued pursuant to this Ordinance to construct or install a weir, head gate, valve, meter, gauge, or other reasonable and appropriate device for the control and measurement of water and for the prevention of Waste.

2-1-114. Issuance of Appropriation Right Does Not Constitute Permission to Trespass. The issuance of an Appropriation Right pursuant to this Ordinance does not constitute a license or permission to trespass on land which the holder of the Appropriation Right does not otherwise have a legal right to access, not does it constitute a ditch right.

2-1-115. Development of Enforceable Schedule for the Tribes' Other Instream Flow Rights.

1. As set forth in the Compact, each of the Tribes' instream flow rights identified in Article III.C.1.d.iii of the Compact shall not be enforceable until after an enforceable schedule for that stream reach is promulgated pursuant to the process set forth in this Section. This process shall not commence for any stream reach until the Compact has been finally approved by the Montana Water Court, and until the Montana Water Court has issued a final decree for the water court basin (76L or 76LJ) in which that stream reach lies, including the expiration of all time for appeals, or the resolution of any such appeal, whichever date is latest (the "Eligibility Date").

2. At any time after the Eligibility Date, the Tribes may initiate the enforceable schedule process for any given stream reach included in the rights identified in Article III.C.1.d.iii of the Compact by:

a. providing notice to water rights holders in the reach of the Tribes' initiation of the process to finalize and implement the enforceable schedule;

b. developing a full summary of all Water Rights Arising Under State Law in the reach, including a monthly time-step pattern of water use;

c. developing a summary of streamflow conditions, at or near each enforceable schedule compliance point within the reach area, utilizing:

i. streamflow gaging information; or

ii. an accepted hydrologic analysis procedure to estimate streamflow conditions. The method to develop streamflow information will be based on the professional judgment of the Tribes' hydrologist responsible for coordinating the enforceable schedule process; and

d. preparing a report on the availability of water to fulfill the Tribes' instream flow water right for that reach area.

3. The Tribes shall prepare each proposed enforceable schedule based on a water budget that allows valid water rights to be exercised.

4. The Tribes shall hold one or more public meetings, and provide timely advanced notice to affected water users of each such meeting, to report on the completion of the water availability study and the proposed enforceable schedule for that reach area.

5. The Tribes shall consider the public comment received either at the public meeting(s) or within 30 days thereafter, and shall finalize the proposed enforceable schedule for a given reach area no fewer than 45 days after the day of the last public meeting.

6. The Tribes shall provide written notice to the Engineer of the finalized proposed enforceable schedule, including an explanation of the technical basis therefore. Upon receipt, the Engineer shall forward the proposed enforceable schedule to Staff for review.

7. Staff, using information from the written notice, as well as their own compilation of independent resources and analysis, if available, shall issue a recommended decision as to whether to adopt the enforceable schedule within 90 days of the date of the written notice provided by the Tribes pursuant to subsection (6) of this Section.

8. If the recommended decision is to adopt the enforceable schedule, a summary of the proposed enforceable schedule and the recommended decision shall be publicly noticed by the Office of the Engineer once via a legal notice in a local newspaper of general circulation and posted by the Office of the Engineer on the Board's website for a period not less than 45 days from the date the recommendation is issued. A summary of the proposed enforceable schedule and the recommended decision shall also be distributed electronically to individuals or entities who have registered with the Board to receive electronic notice. If no objections are filed within 45 days of the initial Publication of the recommended decision by the Office of the Engineer, or if all filed objections are unconditionally withdrawn prior to being ruled upon, the application shall be granted by the Engineer or Designee within 10 days after expiration of the time for filing objections or after the unconditional withdrawal of the last objection, whichever date is later.

9. Objections to a proposed enforceable schedule may be filed only by holders of water rights in the particular stream reach for which the enforceable schedule

is proposed. The only cognizable ground for objection is that the proposed enforceable schedule will have an adverse effect on the objector's water right. An objection must describe the alleged adverse effect on the objector's water right. The burden of proof shall be on the objector.

10. An objector or the Tribes may elect to have any valid objection decided on the record or after hearing. If the objector elects to have a hearing, that request must be made at the same time as the filing of the objection or the objector's right to a hearing is waived. The Tribes must invoke the right to a hearing within 10 days of receiving notice of the objection or the Tribes' right to a hearing is waived.

11. Discovery prior to hearing will be as provided by the Engineer or Designee, and may commence following the receipt of a valid objection.

12. The Engineer or Designee, after issuance of notice of hearing, may not communicate with any party to that case or any party's representative(s) in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate.

13. The hearing shall be recorded electronically and an official record maintained.

14. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

15. A written decision by the Engineer or Designee shall be rendered within 60 days of the hearing, disseminated to the parties, and posted by the Office of the Engineer on the Board's website within 10 days of its issuance. If the individual who conducted the hearing becomes unavailable to the Office of the Engineer, a decision may be prepared by an individual who has read the record only if the demeanor of witnesses is considered immaterial by all parties to the case. If any party considers the demeanor of any witness to be material to the resolution of the appeal, a new hearing must be held.

16. The Tribes or any objector dissatisfied with the final decision of the Engineer or Designee may appeal to the Board (and become an appellant) and obtain review of the Engineer's or Designee's decision. A notice of appeal to the Board must be filed with the Board within 30 days of the Engineer's or Designee's decision. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped. Appeal to the Board shall be resolved pursuant to the provisions of Section 2-2-111 of this Ordinance.

17. If the recommended decision is to reject the proposed enforceable schedule, the Tribes may withdraw the proposed enforceable schedule within 10 days of the issuance of the recommended decision, or may appeal the recommended decision to the Engineer by filing a notice of appeal within 30 days of issuance of the recommended decision. The Tribes may elect to have the appeal decided on the record, after submission of additional evidence and argument, or after hearing. If the Tribes elect to have a hearing, that request must be made at the same time as the filing of the notice of appeal or the right to a hearing is waived. The notice of appeal must specify those parts of the recommended decision claimed to be in error.

18. Within 60 days from the filing of the notice of appeal, or any extended period of time, not to exceed 60 days, granted by the Engineer or Designee, the Tribes may submit additional factual evidence and legal argument in support of the proposed enforceable schedule. Staff who issued the recommended decision shall have 45 days from the Tribes' submission to revise, amend, or affirm the recommended decision in a second recommended decision that explains in writing the rationale for the second recommended decision.

19. If the recommended decision or second recommended decision is to reject the proposed enforceable schedule and no notice of appeal is filed pursuant to this Section, the proposed enforceable schedule shall be deemed rejected the day after expiration of the time for filing a notice of appeal. The rejection of a proposed enforceable schedule does not preclude the Tribes from filing another proposed enforceable schedule for the same or any other stream reach identified in the rights set forth in Article III.C.1.d.iii of the Compact.

20. The Tribes bear the burden of demonstrating to the Engineer or Designee by a preponderance of the evidence, whether a hearing is held or not, that the recommended decision or second recommended decision is in error.

21. If the Tribes request a hearing before the Engineer or Designee, a hearing shall be held no later than the latest of the following:

a. 90 days after the filing of the notice of appeal; or

b. 30 days after the issuance of a second recommended decision pursuant to subsection (2) of this Section, whichever is later.

22. The hearing shall be recorded electronically and an official record maintained. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

23. A decision by the Engineer or Designee to reverse, modify, or affirm the recommended decision or the second recommended decision shall be made in writing within 60 days after the later of:

a. the filing of a notice of appeal pursuant to subsection (1) of this Section;

b. the submission of additional evidence or legal argument pursuant to subsection (2) of this Section;

c. issuance of Staff's second recommended decision; or

d. the completion of the hearing.

24. If the Engineer or Designee reverses the recommended decision or the second recommended decision, and determines that the enforceable schedule should not have been rejected, the proposed enforceable schedule shall be publicly noticed to the public and processed pursuant to the provisions of subsections (8)-(16) of this Section.

25. If the Engineer or Designee affirms the recommended decision or the second recommended decision, resulting in the rejection of the proposed enforceable schedule, the Tribes may either accept that decision by withdrawing the proposed enforceable schedule or taking no further action, or may appeal that decision to the Board pursuant to Section 2-2-111 of this Ordinance. If no timely notice of appeal is filed, the proposed enforceable schedule shall be deemed rejected on the day after the expiration of the time to file the notice of appeal.

26. Any final Board decision on implementation of the enforceable schedule made pursuant to the process outlined in this Section may be appealed pursuant to Section 2-2-112 of this Ordinance.

PART 2. PERMIT AND CHANGE APPLICATION PROCESS

2-2-101. Appropriation Rights and Change in Use authorizations on the Reservation. After the Effective Date, a Person within the exterior boundaries of the Reservation may not Appropriate surface water or Groundwater for a new beneficial use, or change an Existing Use, or commence construction of diversion, impoundment, withdrawal, or related distribution Works except by applying for and receiving an Appropriation Right, or Change in Use authorization, from the Board.

2-2-102. Burden of Proof for Ground or Surface Water Permits and Change Authorizations.

1. For any application for an Appropriation Right or Change in Use that is not one of the categories of Appropriation Right identified in Sections 1-1-112(1) or 2-2-118 of this Ordinance, applicants for an Appropriation Right, or for a Change in Use authorization must prove by a preponderance of the evidence that the proposed new Appropriation Right or Change in Use authorization will not adversely affect any Appropriator.

2. For any application for an Appropriation Right or Change in Use that is not one of the categories of Appropriation Right identified in Sections 1-1-112(1) or 2-2-118 of this Ordinance, the Board, Engineer, or Designee may modify or condition the issuance of Appropriation Right or Change in Use authorization applied for, to assure that:

a. the new Appropriation Right or Change in Use authorization will not adversely affect any Appropriator;

b. the proposed means of diversion, construction, and operation of the appropriation Works are adequate;

c. except in the case of instream flows or other non-consumptive uses, the applicant has the possessory interest or the written consent of the Person(s) with possessory interest in the property where the water is to be put to beneficial use;

d. the water quality of an Appropriator will not be adversely affected;

e. the proposed use will be consistent with the classification of water set for the source of supply pursuant to water quality standards established under the federal Clean Water Act, 33 USC Section 1251 et seq., and contained in regulations promulgated under the Confederated Salish and Kootenai Tribes' Water Quality Management Ordinance, Tribal Ordinance 89B; and

f. the proposed Appropriation Right or Change in Use authorization will not impair the ability of a discharge permit holder to satisfy effluent limitations set forth in a permit issued in accordance with water quality standards established under the federal Clean Water Act, 33 USC Section 1251 et seq., and contained in regulations promulgated under the Confederated Salish and Kootenai Tribes' Water Quality Management Ordinance, Tribal Ordinance 89B.

2-2-103. Pre-Application Meeting with Office of the Engineer. Prior to applying to the Board for a new Appropriation Right or Change in Use authorization, within the exterior boundaries of the Flathead Reservation, applicants may meet informally with Staff regarding the application process and information requirements.

2-2-104. Application to Board.

1. An applicant for a new Appropriation Right or Change in Use authorization must:

a. pay the appropriate application fee in the amount set by the Board;

b. fill out completely:

i. the Flathead Reservation Appropriation Right Application; or

ii. the Flathead Reservation Application for a Change in Use authorization; and

iii. all applicable addenda;

c. attach to each application all required maps; and

d. sign, date, and notarize or otherwise swear under appropriate oath to the accuracy of the contents of each application.

2. Upon the day of the receipt of an application, or amendment to an application, for a new Appropriation Right or Change in Use authorization, the Office of the Engineer must stamp it received.

3. If an application for a new Appropriation Right is ultimately granted, the priority date of the application is the date the application is stamped received by the Office of the Engineer.

4. All application forms may, upon recommendation by the Engineer, be modified by a unanimous vote of the Board. Any such modification is pursuant to and does not constitute a modification of this Ordinance or the Compact.

2-2-105. Adequate to Process Review.

1. Within 30 days of receipt by the Office of the Engineer of an application for a new Appropriation Right or Change in Use authorization, Staff shall review the application and make a determination whether the application is adequate to process. An application is adequate to process if it:

a. clearly identifies the proposed project; and

b. contains the information required by the following forms:

i. Flathead Reservation Appropriation Right Application, including for Groundwater applications Addendum B - "Flathead Reservation Groundwater Minimum Aquifer Testing Requirements"; or

ii. Flathead Reservation Application for a Change in Use authorization.

2. Staff may waive aquifer testing requirements if sufficient hydrogeologic information already exists on the source and in the location of the proposed development.

3. An application determined to be adequate to process shall be posted on the Board's website within 10 working days of the determination of adequacy.

2-2-106. Not Adequate to Process Determination.

1. If Staff determines an application for a new Appropriation Right or Change in Use authorization is not adequate to process, the Office of the Engineer shall send a letter to the applicant notifying the applicant of the defects in the application.

2. An applicant has 90 days from the date of mailing of the notice of inadequacy pursuant to subsection (1) of this Section to make the application adequate to process. An application for a new Appropriation Right whose defects are timely corrected and which is ultimately granted retains its priority of the date of the initial application.

3. Upon receipt of the information from the applicant to correct deficiencies, Staff must review the updated application and make a determination within 30 days whether the application is adequate to process.

4. An application that is not timely made adequate to process, either through the applicant's failure to respond to the notice of inadequacy issued pursuant to subsection (1) of this Section within the timeframe set forth in subsection (2) of this Section, or by the applicant's failure to provide sufficient information in response to a notice of inadequacy issued pursuant to subsection (1) of this Section within the timeframe set forth in subsection (2) of this Section, shall be deemed denied.

5. An applicant who disagrees with the decision to deny may appeal that decision to the Board pursuant to Section 3-1-104 of this Ordinance. If such an appeal is filed, the Engineer shall be the appellee.

2-2-107. Application Analysis and Recommended Decision.

1. Prior to the expiration of the time periods set forth in Sections 2-2-105(1), 2-2-106(2), 2-2-106(3), or 2-2-108(2) of this Ordinance, Staff may meet informally with an applicant to discuss an application, including any proposed Mitigation Plan. The results of such meetings shall be documented by a summary memo prepared by Staff and included in the application file. An applicant may also submit a memo documenting the meeting, which becomes part of the application file. If an application submitted pursuant to Section 2-2-104 or a Mitigation Plan submitted pursuant to Section 2-2-108(2) of this Ordinance is amended during this informal process, the amended application shall be reviewed by an individual on Staff who was not involved in the informal process to determine whether the amendments are so substantial that they constitute a new application. If it is determined that the amended application constitutes a new application, that application must be reviewed in its entirety pursuant to Sections 2-2-105 and 2-2-106 of this Ordinance. A new application fee must be submitted. A determination that an application amendment is so substantial as to constitute a new application may be appealed to the Engineer pursuant to Section 2-2-109 of this Ordinance.

2. Staff shall analyze an application determined to be adequate to process pursuant to Section 2-2-105 of this Ordinance within 180 days of the determination of adequacy using tools or techniques that may include:

a. independent resources compiled by Staff (including, but not limited to, Water Resources Surveys and field notes, aerial photographs, water rights decrees, stream gauging records, well logs, and water rights records);

b. water use records (water measurement, ranch logs, etc.) submitted by the applicant;

c. field inspection by Staff;

d. hydrologic or geohydrologic evaluation completed by Staff, provided that all model results, if any, shall be documented.

3. All information relied on by Staff in analyzing an application pursuant to this Section shall be documented in the application file.

4. Staff, using information from the application as well as their own compilation of independent resources and analysis, shall draft a recommended decision with findings of fact and conclusions of law determining:

a. whether the proposed Appropriation Right or Change in Use authorization will cause adverse effect to any Appropriator; and

b. whether and, if so, what amount of Mitigation is required before the proposed Appropriation Right or Change in Use authorization may be issued.

5. If the recommended decision is to grant the application, a summary of the application and the recommended decision shall be publicly noticed by the Office of the Engineer once via a legal notice in a local newspaper of general circulation

and posted by the Office of the Engineer on the Board's website for a period not less than 45 days from the date the recommendation is issued. A summary of the application and the recommended decision shall also be distributed electronically to individuals or entities who have registered with the Board to receive electronic notice. If no objections are filed within 45 days of the initial Publication of the recommended decision by the Office of the Engineer, or if all filed objections are unconditionally withdrawn prior to being ruled upon, the application shall be granted by the Engineer or Designee within 10 days after expiration of the time for filing objections or after the unconditional withdrawal of the last objection, whichever date is later.

6. If the recommended decision is to deny the application, the applicant may withdraw the application within 10 days of the issuance of the recommended decision or appeal the recommended decision to the Engineer pursuant to Section 2-2-109 of this Ordinance. The application filing fee shall not be refunded upon withdrawal. Failure to withdraw the application or file an appeal within the applicable timeframes shall result in the application being deemed denied on the day after the expiration of the time to appeal.

7. If the recommended decision is to grant the application with conditions other than Mitigation, the application shall be noticed to the public and processed pursuant to the procedures set forth in Sections 2-2-107(5) and 2-2-110 of this Ordinance unless the applicant withdraws the application within 30 days of the issuance of the recommended decision or appeals the recommended decision to the Engineer pursuant to Section 2-2-109 of this Ordinance. The application filing fee shall not be refunded upon withdrawal.

8. Amendments to applications are not allowed after the issuance of a recommended decision on that application, except as provided in Section 2-2-108(2) of this Ordinance.

2-2-108. Process if Mitigation Required.

1. If Staff analysis of an application concludes that Mitigation is necessary to approve an application, a recommended decision shall be issued to that effect. Upon issuance of a recommended decision finding that Mitigation is required, the applicant may:

a. withdraw the application (with no refund of the application filing fee);

b. appeal the recommended decision to the Engineer pursuant to Section 2-2-109 of this Ordinance; or

c. prepare a Mitigation Plan.

2. If the applicant chooses to prepare a Mitigation Plan, the running of the time set forth in Section 2-2-107(2) of this Ordinance for processing that application is suspended until a timely Mitigation Plan is received from the applicant. The Mitigation Plan must be submitted within 180 days of issuance of the recommended decision requiring Mitigation, or of the decision of the Engineer or Designee as set forth in Section 2-2-109(10) of this Ordinance, whichever date is later, and must include either or both of:

a. an application for a Change in Use authorization for another water right so as to provide for the required Mitigation; and/or

b. amendments describing the source, volume, flow rate, point of diversion, place of use, period of use, and place of storage of mitigation water that comes from other than a change authorization.

3. The running of the time set forth in Section 2-2-107(2) of this Ordinance for analyzing the application and issuing a recommended decision resumes

upon the timely receipt by the Office of the Engineer of the material(s) required by subsection (2) of this Section.

4. If a Mitigation Plan is timely submitted by an applicant following a decision of the Engineer or Designee as set forth in Section 2-2-109(10) of this Ordinance, Staff shall issue a new recommended decision concerning the application within 180 days of the timely submission of the Mitigation Plan.

5. If the recommended decision is to grant the application conditioned on the Mitigation Plan submitted by the applicant pursuant to subsection (2) of this Section, the application shall be noticed to the public and processed pursuant to the procedures set forth in Sections 2-2-107(5) and 2-2-110 of this Ordinance.

6. If the recommended decision is to deny the application, the applicant may withdraw the application within 10 days of the issuance of the recommended decision or appeal the recommended decision to the Engineer pursuant to Section 2-2-109 of this Ordinance. The application filing fee shall not be refunded upon withdrawal. Failure to withdraw the application or file an appeal within the applicable timeframes shall result in the application being deemed denied on the day after the expiration of the time to appeal.

7. If the Mitigation Plan is not submitted within 180 days of issuance of the recommended decision requiring Mitigation the application shall be deemed denied.

2-2-109. Appeal to Engineer from Recommended Decision.

1. If a recommended decision issued pursuant to Sections 2-2-107 or 2-2-108 of this Ordinance is to deny an application, or grant it with a requirement of Mitigation or other conditions, the applicant may appeal to the Engineer by filing a notice of appeal within 30 days of issuance of the recommended decision. An applicant may elect to have the appeal decided on the record, after submission of additional evidence and argument, or after hearing. If the applicant elects to have a hearing, that request must be made at the same time as the filing of the notice of appeal or the right to a hearing is waived. The notice of appeal must specify those parts of the recommended decision claimed to be in error.

2. Within 60 days from the filing of the notice of appeal, or any extended period of time, not to exceed 60 days, granted by the Engineer or Designee, the applicant may submit additional factual evidence and legal argument in support of the application. Staff who issued the recommended decision shall have 45 days from the applicant's submission to revise, amend, or affirm the recommended decision in a second recommended decision that explains in writing the rationale for the second recommended decision.

3. If the recommended decision or second recommended decision is to deny an application and no notice of appeal is filed pursuant to this Section, the application shall be deemed denied the day after expiration of the time for filing a notice of appeal.

4. The applicant bears the burden of demonstrating to the Engineer or Designee by a preponderance of the evidence, whether a hearing is held or not, that the recommended decision or second recommended decision is in error.

5. If the applicant requests a hearing before the Engineer or Designee, a hearing shall be held no later than the latest of the following:

a. 90 days after the filing of the notice of appeal; or

b. 30 days after the issuance of a second recommended decision pursuant to subsection (2) of this Section, whichever is later.

6. The hearing shall be recorded electronically and an official record maintained. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

7. A decision by the Engineer or Designee to reverse, modify, or affirm the recommended decision or the second recommended decision shall be made in writing within 60 days after the later of:

a. the filing of a notice of appeal pursuant to subsection (1) of this Section;

b. the submission of additional evidence or legal argument pursuant to subsection (2) of this Section;

c. issuance of Staff's second recommended decision; or

d. the completion of the hearing.

8. If the Engineer or Designee reverses the recommended decision or the second recommended decision, and determines that the application should be granted, the application shall be publicly noticed to the public and processed pursuant to the provisions of Section 2-2-107(5) and Section 2-2-110 of this Ordinance.

9. If the Engineer or Designee affirms the recommended decision or the second recommended decision, resulting in the denial of an application, the applicant may either accept that decision by withdrawing the application or taking no further action, or may appeal that decision to the Board pursuant to Section 2-2-111 of this Ordinance. The application filing fee shall not be refunded upon withdrawal. If no timely notice of appeal is filed, the application shall be deemed denied on the day after the expiration of the time to file the notice of appeal.

10. If the Engineer or Designee affirms the recommended decision or the second recommended decision, resulting in the granting of an application with a requirement of conditions other than Mitigation, the applicant may withdraw the application; file with the Office of the Engineer written acceptance of the conditions within 30 days of the Engineer's or Designee's decision, in which case the application will be noticed to the public and processed pursuant to the provisions of Sections 2-2-107(5) and 2-2-110 of this Ordinance; or appeal the decision to the Board pursuant to Section 2-2-111 of this Ordinance. The application filing fee shall not be refunded upon withdrawal. Failure to withdraw the application, file written acceptance of the condition, or file an appeal within the applicable timeframes shall result in the application being deemed denied on the day after the expiration of the time to appeal.

11. If an applicant has appealed to the Engineer a Staff determination that Mitigation is necessary pursuant to Section 2-2-108(1)(b) of this Ordinance, and the Engineer or Designee affirms the recommended decision resulting in a determination that Mitigation is required before the application may be granted, the applicant may withdraw the application; appeal the decision to the Board pursuant to Section 2-2-111 of this Ordinance; or prepare a Mitigation Plan pursuant to Section 2-2-108(2) of this Ordinance. The application filing fee shall not be refunded upon withdrawal. Failure to withdraw the application, file a Mitigation Plan, or file an appeal within the applicable timeframes shall result in the application being deemed denied on the day after the expiration of the time to file a Mitigation Plan.

12. If the Engineer or Designee affirms a recommended decision or second recommended decision that found a Mitigation Plan inadequate to justify the issuance of the proposed Appropriation Right or Change in Use authorization, the applicant may either accept that decision by withdrawing the application or taking no further action, or may appeal that decision to the Board pursuant to Section 2-2-111 of this Ordinance. The application filing fee shall not be refunded upon withdrawal. If no timely notice of appeal is filed, the application shall be deemed denied on the day after the expiration of the time to file the notice of appeal.

13. Any applicant wishing to appeal a decision of the Engineer or Designee pursuant to this Section must file a notice of appeal with the Board. Any such notice of appeal must be filed with the Board within 30 days of the Engineer's or Designee's decision. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped.

2-2-110. Notice and Hearing on Recommended Decision to Grant.

1. Any Person alleging that they will suffer adverse effect from the grant of an application for proposed Appropriation Right or Change in Use authorization may file an objection to a recommended decision to grant an application. To be valid, an objection must describe the alleged adverse effect on the objector's water right.

2. An objector or an applicant may elect to have any valid objection decided on the record or after hearing. If the objector elects to have a hearing, that request must be made at the same time as the filing of the objection or the objector's right to a hearing is waived. The applicant must invoke the right to a hearing within 10 days of receiving notice of the objection or the applicant's right to a hearing is waived.

3. Discovery prior to hearing will be as provided by the Engineer or Designee, and may commence following the receipt of a valid objection.

4. If, prior to the hearing, valid objections are withdrawn pursuant to an agreement between or among the applicant and objector(s) setting forth various conditions on the application, the Engineer or Designee shall grant the application subject to those conditions necessary to satisfy the criteria set forth in Section 2-2-102(1) of this Ordinance, but the Engineer or Designee has the discretion to accept or reject other conditions of the agreement between or among the applicant and objector(s).

5. The Engineer or Designee, after issuance of notice of hearing, may not communicate with any party to that case or any party's representative(s) in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate.

6. The hearing shall be recorded electronically and an official record maintained.

7. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

8. The burden of proof is on the applicant to prove the applicable criteria of Section 2-2-102(1) of this Ordinance by a preponderance of evidence.

9. A written decision by the Engineer or Designee shall be rendered within 60 days of the hearing, disseminated to the parties, and posted by the Office of the Engineer on the Board's website within 10 days of its issuance. If the individual who conducted the hearing becomes unavailable to the Office of the Engineer, a decision may be prepared by an individual who has read the record only if the demeanor of witnesses is considered immaterial by all parties to the case. If any party considers the demeanor of any witness to be material to the resolution of the appeal, a new hearing must be held.

10. Any applicant or objector dissatisfied with the final decision of the Engineer or Designee may appeal to the Board (and become an appellant) and obtain review of the Engineer's or Designee's decision. A notice of appeal to the Board must be filed with the Board within 30 days of the Engineer's or Designee's decision. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing. Immediately upon receipt by the Board, the notice of appeal shall be date stamped.

2-2-111. Appeal to the Board.

1. Any question not raised before the Engineer or Designee may not be raised in the appeal to the Board unless it is shown to the satisfaction of the Board that there was good cause for failure to raise the question before the Engineer or Designee.

2. Appeal to the Board of decisions of the Engineer or Designee shall be confined to the record. If, before the date set for hearing the appeal, application is made to the Board for leave to present additional evidence and it is shown to the satisfaction of the Board that the additional evidence is material and that there were good reasons for failing to present it in the proceeding before the Engineer or Designee, the Board may order that the additional evidence be taken before the Engineer or Designee upon conditions determined by the Board, including the deadline for submission of additional evidence to the Engineer or Designee and for the conclusion of the Engineer's or Designee's review of any such additional evidence. The Engineer or Designee may modify the findings and decision by reason of the additional evidence or may affirm the prior decision and shall file a modified decision or notice of affirming the decision with the Board pursuant to a reasonable deadline set by the Board.

3. If the appellant requests an oral argument, the Board must hold oral argument on the appeal. If the appellant does not request an oral argument, the Board may, in its discretion, order oral argument or may resolve the appeal without one.

4. Review by the Board:

a. the review by the Board must be confined to the record. In cases of alleged irregularities in procedure before the Engineer or Designee not shown in the record, proof of the irregularities may be taken by the Board. The Board, upon request, shall hear oral argument and receive written briefs.

b. the Board may not substitute its judgment for that of the Engineer or Designee as to the weight of the evidence on questions of fact.

c. the Board may affirm the decision of the Engineer or Designee or remand the case for further proceedings.

d. the Board may reverse or modify the decision if substantial rights of an appellant have been prejudiced because:

i. the Engineer's or Designee's findings, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the authority of the Engineer or Designee;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the record as a whole;

(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

ii. findings of fact, upon issues essential to the decision, were not made although requested.

2-2-112. Appeal to Court of Competent Jurisdiction. Pursuant to Article IV.I.6 of the Compact, an aggrieved party may obtain review of a final decision of the Board by filing a petition for judicial review with a Court of Competent Jurisdiction within 30 days of the issuance of the final Board decision. In considering the petition, the Board's legal conclusions shall be reviewed for correctness and its factual findings for abuse of discretion. In the event that a court determines that it lacks subject matter or personal jurisdiction to rule on a petition for judicial review of a Board decision, the party filing the petition shall be entitled to petition for judicial review from any other Court of Competent Jurisdiction within thirty days from the date of a final court order finding lack of jurisdiction.

2-2-113. Completion.

1. Whenever an Appropriation Right or Change in Use authorization is issued under this Chapter, the Engineer or Designee shall specify in writing as part of the Appropriation Right or Change in Use authorization issued, or in any authorized extension of time provided pursuant to subsection (2) of this Section, the time limits for commencement of the appropriation Works, completion of construction, and actual application of water to the proposed beneficial use. In fixing those time limits, the Engineer or Designee shall consider the cost and magnitude of the project, the engineering and physical features to be encountered, and, on projects designed for gradual development and gradually increased use of water, the time reasonably necessary for that gradual development and increased use. The Engineer or Designee shall issue the Appropriation Right or Change in Use authorization, or the authorized extension of time, subject to the terms, conditions, restrictions and limitations the Engineer or Designee considers necessary to ensure that work on the Appropriation is commenced, conducted, and completed and that the water is actually applied in a timely manner to the beneficial use specified in the Appropriation Right or Change in Use authorization.

2. The Engineer or Designee, for good cause shown, may extend the time limits specified in the Appropriation Right or Change in Use authorization for commencement of the appropriation Works, completion of construction, and actual application of water to the proposed beneficial use. If commencement of the appropriation Works, completion of construction, or actual application of water to the proposed beneficial use is not completed within the time limit set forth in the Appropriation Right or Change in Use authorization, or by any extension granted pursuant to this subsection, the Appropriation Right or Change in Use authorization is void upon lapse of the time limit.

3. Any owner of an Appropriation Right or Change in Use authorization who disagrees with the time limit specified by the Engineer or Designee pursuant to subsections (1) and (2) of this Section may appeal the Engineer's decision to the Board pursuant to Section 2-2-111 of this Ordinance. A notice of appeal must be filed with the Board within 30 days of the Engineer's or Designee's decision. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing.

2-2-114. Compliance with Completion Deadline. Upon actual application of water to the proposed beneficial use within the time allowed by the Engineer or Designee pursuant to Section 2-2-113 of this Ordinance, the owner of the Appropriation Right or Change in Use authorization shall notify the Office of the Engineer that the Appropriation has been completed. The notification must contain a certified statement by an individual with experience in the design, construction, or operation of appropriation Works describing how the Appropriation was completed. The Office of the Engineer shall review the certified statement and may then inspect the Appropriation, and if it determines that the Appropriation has been completed in substantial accordance with the Appropriation Right or Change in Use authorization, it shall issue the owner of the Appropriation Right or Change in Use authorization a Flathead Reservation Appropriation Right Document. The original of the document shall be sent to the owner of the Appropriation Right or Change in Use authorization, and a duplicate shall be kept in the Office of the Engineer.

2-2-115 Redundant and Substitute Wells.

1. An Appropriator may change an Appropriation Right or Existing Use without first applying for a Change in Use authorization pursuant to Sections 2-2-101 et seq. of this Ordinance for the purpose of constructing a Substitute Well if:

a. the rate and volume of the appropriation from the Substitute Well are equal to or less than that of the Well being replaced;

b. the water from the Substitute Well is appropriated from the same Groundwater source as the water appropriated from the Well being replaced; and

c. a timely, correct and complete Notice of Substitute Well is submitted to the Engineer as provided in subsection 2 of this Section.

2. Review.

a. Within 60 days after a Substitute Well is completed and delivering water, the Appropriator shall file a Notice of Substitute Well with the Office of the Engineer on a form provided by the Board. Upon receipt of the Notice, the Office of the Engineer shall date stamp it.

b. The Engineer or Designee shall review the Notice of Substitute Well within 90 days of the date stamped on it pursuant to subsection (2)(a) of this Section, and shall issue a Change in Use authorization if all of the criteria identified in subsection (1) of this Section have been met and the Notice of Substitute Well is correct and complete.

c. The Engineer or Designee may not issue a Change in Use authorization until a correct and complete Notice of Substitute Well has been filed with the Office of the Engineer. The Office of the Engineer shall return to the Appropriator a Notice that is determined by Staff to be defective, along with a description of defects in the Notice. The Appropriator shall refile a corrected and

completed Notice of Substitute Well within 30 days of notification of defects or within a further time as the Engineer or Designee may allow, not to exceed 180 days. If the Appropriator does not refile within that timeframe, the Appropriation Right will be deemed denied and the Appropriator must then comply with the provisions of subsection (d) of this Section.

d. If a Notice of Substitute Well is not completed within the time allowed, the Appropriator shall:

i. cease appropriation of water from the Substitute Well pending approval by the Engineer or Designee; and

ii. submit an application for a Change in Use authorization pursuant to Section 2-2-104 of this Ordinance; or

iii. comply with the well abandonment procedures, standards and rules adopted by the board of water well contractors pursuant to 37-43-202, MCA, or any successor procedures, standards and rules that are promulgated in State law.

3. Wells that have been determined to be abandoned pursuant to Sections 2-1-111 and 2-1-112 of this Ordinance are not eligible to be replaced by Substitute Wells under this Section.

4. For each well that is replaced under subsection (1) of this Section, the appropriator shall follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202, MCA, or any successor procedures, standards and rules that are promulgated in State law.

5. An Appropriator may change an Appropriation Right or Existing Use without first applying for a Change in Use authorization pursuant to Section 2-2-101, et seq. of this Ordinance for the purpose of constructing a Redundant Well in a Public Water Supply System if the Redundant Well:

a. withdraws water from the same Groundwater source as the original well; and

b. is required by a State, federal, or Tribal agency.

6. The priority date of the Redundant Well is the same as the priority date of the original well. Only one well may be used at one time.

7. Within 60 days of completion of a Redundant Well, the Appropriator shall file a Notice of Construction of Redundant Well with the Office of the Engineer on a form provided by the Board. The Engineer or Designee shall review and process the Notice pursuant to the procedures set forth in subsection (2) of this Section.

8. If a Notice of Construction of Redundant Well is not completed within the time allowed, the Appropriator shall:

a. cease appropriation of water from the Redundant Well pending approval by the Engineer or Designee; and

b. submit an application for a Change in Use authorization pursuant to Section 2-2-104 of this Ordinance; or

c. comply with the well abandonment procedures, standards and rules adopted by the board of water well contractors pursuant to 37-43-202, MCA, or any successor procedures, standards and rules that are promulgated in State law.

9. Any Appropriator aggrieved by a determination that a corrected Notice required by subsection (2) or (7) of this Section, as applicable, is defective may appeal that determination to the Board by filing a notice of appeal to the Board

within 30 days of the rejection of the corrected Notice. To be filed, a notice must be placed in the custody of the Board within the time fixed for filing. Filing may be accomplished by mail addressed to the Board, but filing shall not be timely unless the papers are actually received within the time fixed for filing.

10. Any appeal to the Board filed pursuant to subsection (9) of this Section shall be conducted pursuant to the provisions of Section 3-1-104 of this Ordinance. If such an appeal is filed, the Engineer shall be the appellee.

2-2-116. Appropriation Rights for Stock Water Allowances.

1. Appropriation Rights for Stock Water Allowances include Stock Water Well Allowances, Stock Water Pit Allowances, and Stock Water Tank Served by Surface Water Allowances.

2. A Stock Water Well Allowance may be sourced from either Wells or Developed Springs.

3. A Stock Water Pit Allowance may be sourced from Groundwater seepage or a non-perennial stream.

4. A Stock Water Tank Served by Surface Water Allowance may be sourced from a perennial or non-perennial stream.

5. Before appropriating water for a Stock Water Well, approval from the Engineer is required. The Engineer may approve a Stock Water Well Allowance if:

a. the Well construction complies with the requirements of Section 1-1-111 of this Ordinance;

b. the maximum flow rate is 35 gallons per minute or less;

c. the maximum annual diverted volume is 2.4 acre-feet or less;

d. the means of diversion is a single Well or Developed Spring;

e. the well is not physically connected to a Home or Business;

f. the means of diversion includes Well Shaft Casing; and

g. Stock Water use associated with the Appropriation is dispensed using Stock Tanks.

6. Before appropriating water for a Stock Water Pit Allowance, approval from the Engineer is required. The Engineer can approve a Stock Water Pit allowance if:

a. the capacity of the Stock Water Pit is 5 acre feet or less;

b. the maximum annual appropriated volume is 10 acre feet or less;

c. the Stock Water Pit Allowance is sourced from Groundwater seepage, a non-perennial stream, or both, provided that a ditch or pipeline is not used;

d. the Stock Water Pit Allowance is constructed on and accessible to a parcel of land 40 acres or larger and owned or under control of the applicant; and

e. the construction of the means of diversion complies with Tribal Ordinance 87(A) (Aquatic Lands Conservation Ordinance).

7. Before appropriating water for a Stock Water Tank Served by Surface Water Allowance, approval from the Engineer is required. The Engineer can approve a Stock Water Tank Served by Surface Water Allowance if:

a. the maximum flow rate is 10 gallons per minute or less;

b. the combined maximum annual diverted volume is 2.4 acre-feet or less;

c. the means of conveyance is a fully contained pipe or hose. Open ditch conveyance is not allowed;

d. the construction of the means of diversion complies with Tribal Ordinance 87(A) (Aquatic Lands Conservation Ordinance); and

e. Stock Water associated with the appropriation is dispensed using one or more Stock Tanks.

8. An applicant must file a completed Application for a Stock Water Allowance with the Office of the Engineer and obtain approval from the Engineer before developing and appropriating water for Stock Water use pursuant to this Section. A complete application shall also include:

a. proof that the applicant has the possessory interest or the written consent of the Person(s) with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use, and property rights in the diversion Works; and

b. a site-map that shows, in addition to the requirements of Section 1-1-110(12) of this Ordinance, the location of all proposed Stock Water Allowance development(s) including latitude and longitude in decimal degrees. The map must include the entire property boundaries where the Stock Water Allowance development is proposed, or a minimum radius of 500 feet from any proposed Stock Water Allowance development, whichever is greater, and include any of the following that are in existence or are proposed by the applicant:

i. well(s), Pits and Stock Tanks including purpose of each;

ii. buildings on the site, including identification of Well connections;

iii. property lines and ownerships; and

iv. means of conveyance, water right points of diversions, and surface water features.

9. Upon receipt of a completed application form complying with subsection (8) of this Section, the Office of the Engineer shall date stamp the application form.

10. The Engineer or Designee shall review the application within 30 days of the date stamped on the application pursuant to subsection (9) of this Section, and within that timeframe may either approve the application or return a defective application to the applicant with a written explanation of the defects. If a corrected application is submitted within 30 days of its return by the Office of the Engineer, no new filing fee shall be required. Upon receiving a corrected application, which shall be date stamped by the Office of the Engineer upon receipt, the Engineer or Designee has 30 days from the date stamped on the corrected application pursuant to this subsection (10) to approve or deny the application.

11. If the Engineer or Designee does not approve or return an application within 30 days of the date stamped on the application pursuant to subsection (9) of this Section, the application shall be deemed approved. If the Engineer or Designee does not approve or deny a corrected application within 30 days of the date stamped on the application pursuant to subsection (10) of this Section, the application shall be deemed approved.

12. Once an applicant meets the requirements of subsections (5) through (9) of this Section, as applicable, and an application is approved by the Engineer or Designee under subsection (10) or (11) of this Section, the Office of the Engineer shall issue an authorization to develop a Stock Water Allowance. The authorization to develop a Stock Water Allowance entitles an Appropriator to construct the authorized type of Stock Water Allowance within, but not to exceed, one year of the date of approval.

13. An Appropriation Right for a Stock Water Allowance becomes valid and final when, within 120 days of completing the diversion Works and putting the water to beneficial use, an Appropriator files a Stock Water Allowance completion form accurately and completely. The completion form for a Stock Water Well Allowance must include a copy of the companion Well Log Report(s), and must identify the as-built attributes of any Well, Pit or Stock Tank constructed. If the as-built attributes are less than or equal to the size of the Allowance for which the applicant originally applied, a Certificate of Stock Water Allowance shall be issued for the as-built attributes. No Certificate of Stock Water Allowance may be issued if the as-built system exceeds the volumes or flow rates set forth in subsections (5), (6) or (7) of this Section, as applicable.

14. If an Appropriation Right for a Stock Water Allowance is revoked by the Board pursuant to the provisions of Section 3-1-112(3) of this Ordinance, or is determined to be abandoned pursuant to the provisions of Sections 2-1-111 and 2-1-112 of this Ordinance, or is voluntarily abandoned, the Appropriator shall, within 180 days of the revocation or voluntary abandonment, fill in and rehabilitate any Pits, Pit-dams, Constructed Ponds, or Reservoirs associated with the revoked or abandoned Appropriation Right for a Stock Water Allowance, and shall, within 180 days of the revocation or voluntary abandonment, seal any tanks or supply lines associated with the revoked or abandoned Appropriation Right for a Stock Water Allowance.

2-2-117. Appropriation Rights for Domestic Allowances for Homes and Businesses; process for application, review, and issuance.

1. Appropriation Rights for Domestic Allowances include Individual Domestic Allowances, Shared Domestic Allowances and Development Domestic Allowances. An Individual Domestic Allowance may be used only to serve an individual Home or Business. A Shared Domestic Allowance may be used only to serve no less than two and no more than three Homes and/or Businesses. A Development Domestic Allowance may be used only to serve a Development.

2. A Domestic Allowance may be sourced from either Wells or Developed Springs.

3. A Domestic Allowance may not be used to fill or maintain Pits, Pit-Dams, Constructed Ponds, or Reservoirs.

4. Before appropriating water for Domestic Use for an Individual Domestic Allowance, approval from the Engineer is required. The Engineer may approve an Individual Domestic Allowance if:

a. the Well construction complies with the requirements of Section 1-1-111 of this Ordinance;

b. the maximum flow rate is 35 gallons per minute or less;

c. the maximum annual diverted volume is 2.4 acre-feet or less;

d. the means of diversion is a single Well or Developed Spring;

e. the Well is physically connected to and serves one and only one Home or Business;

f. the means of diversion includes Well Shaft Casing;

g. Stock Water use associated with the allowance is dispensed using Stock Tanks; and

h. the amount of land to be irrigated by the allowance is 0.7 acres or less.

5. Before appropriating water for a Shared Domestic Allowance, approval from the Engineer is required. The Engineer may approve a Shared Domestic Allowance if:

a. the Well construction complies with the requirements of Section 1-1-111 of this Ordinance;

b. the maximum flow rate is 35 gallons per minute or less;

c. the maximum annual diverted volume is 2.4 acre-feet or less;

d. the means of diversion is a single Well or Developed Spring;

e. the Well is physically connected to not less than two and not more than three Homes and/or Businesses that are not a Development;

f. the means of diversion includes Well Shaft Casing;

g. Stock Water use associated with the allowance is dispensed using Stock Tanks;

h. if the Well is connected to two homes and/or businesses, the amount of land to be irrigated with the allowances is 0.5 acres or less. If the well is connected to three Homes and/or Businesses, the amount of land to be irrigated by the allowance is 0.75 acres or less; and

i. the application includes a copy of the Shared Well Agreement signed by all parties.

6. Before appropriating water for a Development Domestic Allowance, approval from the Engineer is required. The Engineer may approve a Development Domestic Allowance if:

a. the Well construction complies with the requirements of Section 1-1-111 of this Ordinance;

b. the maximum flow rate from each Well or Developed Spring is 35 gallons per minute or less;

c. the combined maximum annual diverted volume from all wells and Developed Springs is 10 acre-feet or less;

d. Measurement devices approved by the Engineer and capable of recording cumulative volumes are installed on each Well or Developed Spring;

e. the means of diversion is one or more Wells and/or Developed Springs not to exceed one Well or Developed Spring per Home or Business within the Development;

f. the means of diversion includes Well Shaft Casing;

g. the allowance is physically connected to multiple Homes and/or Businesses that together constitute a Development;

h. Stock Water use associated with the allowance is dispensed using Stock Tanks;

i. the amount of land to be irrigated with the allowances is limited to 0.25 acres or less for each Home or Business within the Development;

j. the application includes a copy of any Shared Well Agreement(s) signed by all parties, if applicable;

k. the water supply requirements for all Homes and Businesses within the Development are satisfied by the allowance; and

l. the applicant includes a copy of the development plan, plat, or equivalent as required by the associated county government.

7. The owner(s) or operator(s) of a Development Domestic Allowance must submit a Development Domestic Allowance Water Measurement Report by March 31st of the year following the year covered by the report.

8. An applicant must file a completed Application for a Domestic Allowance and obtain approval from the Engineer before drilling any Well(s) or developing

any spring(s) and putting water to use pursuant to this Section. A completed application shall also include:

a. proof that the applicant has a possessory interest or the written consent of the Person(s) with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use, and property rights in the diversion Works; and

b. a site-map that shows, in addition to the requirements of Section 1-1-110(12) of this Ordinance, the location of all proposed Wells and Developed Springs including latitude and longitude in decimal degrees. The map must include the entire property boundaries where the Well associated with the Domestic Allowance is proposed, or a minimum of 500 feet in radius around the proposed Well(s) or Developed Spring(s), whichever is greater, and include any existing or proposed by the applicant:

i. Well(s) and Stock Tanks, including purpose of each well;

ii. sewage facilities including septic tanks and drainfields;

iii. buildings on the site, including identification of Well connections;

iv. property lines and ownerships;

v. irrigated acres per lot or unit Well(s); and

vi. means of conveyance, water right points of diversions, and surface water features.

9. Upon receipt of a completed application form complying with subsection (8) of this Section, the Office of the Engineer shall date stamp the application form.

10. The Engineer or Designee shall review the application within 30 days of the date stamped on the application pursuant to subsection (9) of this Section, and within that timeframe may either approve the application or return a defective application to the applicant, together with a written explanation of the defects. If a corrected application is submitted within 30 days of its return by the Office of the Engineer, no new filing fee shall be required. Upon receiving a corrected application, which shall be date stamped by the Office of the Engineer upon receipt, the Engineer or Designee has 30 days from the date stamped on the corrected application pursuant to this subsection (10) to approve or deny the application.

11. If the Engineer or Designee does not approve or return an application within 30 days of the date stamped on the application pursuant to subsection (9) of this Section, the application shall be deemed approved. If the Engineer or Designee does not approve or deny a corrected application within 30 days of the date stamped on it pursuant to subsection (10) of this Section, the application shall be deemed approved.

12. Once an applicant meets the requirements of subsections (4), (5), or (6) of this Section, as applicable, as well as the requirements of subsection (8) of this Section, and an application is approved by the Engineer or Designee under subsection (10) or (11) of this Section, the Office of the Engineer shall issue an authorization to develop a Domestic Allowance. The authorization to develop a Domestic Allowance entitles an Appropriator to construct the authorized type of Domestic Allowance within, but not to exceed, one year of the date of approval.

13. An Appropriation Right for a Domestic Allowance becomes valid and final when, within 120 days of completing the Well(s) or Developed Spring(s) and putting the water to beneficial use, an Appropriator files a Domestic Allowance completion form accurately and completely. The completion form must also include a copy of the companion Well Log Report(s), and must identify

the as-build attributes of any Well or Stock Tank constructed. If the as-built attributes are less than or equal to the size of the allowance for which the applicant originally applied, a Certificate of Domestic Allowance shall be issued for the as-built attributes. No Certificate of Domestic Allowance may be issued if the as-built system exceeds the volumes or flow rates set forth in subsections (4), (5) or (6) of this Section, as applicable.

14. If an Appropriation Right for a Domestic Allowance is revoked by the Board pursuant to the provisions of Section 3-1-112(3) of this Ordinance, or is determined to be abandoned pursuant to the provisions of Sections 2-1-111 and 2-1-112 of this Ordinance, or is voluntarily abandoned, the Appropriator shall, within 180 days of the revocation or voluntary abandonment, follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202, MCA, or any successor procedures, standards and rules that are promulgated in State law, for any Well associated with the revoked or abandoned Appropriation Right for a Domestic Allowance.

2-2-118. Process for development of new uses from Flathead System Compact Water.

1. Subject to the terms and conditions of the Compact, the Tribal Council or its delegate, or any Person with the written consent of the Tribal Council or its delegate, may apply to utilize Flathead System Compact Water for any beneficial use within the Reservation by submitting a correct and complete application to the Office of the Engineer.

2. A correct and complete application for a use of Flathead System Compact Water shall contain the following information:

a. the name of the applicant;

b. a description of the proposed purpose of use;

c. the point of diversion

d. the means of diversion

e. the place of use;

f. the flow rate, volume diverted, and volume consumed;

g. the means of conveyance;

h. the period of use;

i. the duration or term of the proposed use;

j. a project plan, including a proposed completion period and, if applicable, a list of water rights to be used in conjunction with or to be replaced by the proposed use of Flathead System Compact Water for which the application is being filed;

k. a map depicting all the features described in this subsection (2); and

l. if the applicant is not the Tribal Council or its delegate, written authorization from the Tribal Council or its delegate to submit the application.

3. Upon receipt of a completed application for the use of Flathead System Compact Water, the Office of the Engineer shall date stamp it.

4. Staff shall analyze the application for the use of Flathead System Compact Water within 180 days of the date stamped on the application pursuant to subsection (3) of this Section using the tools and techniques identified in Section 2-2-107(2) of this Ordinance to determine compliance with the criteria identified in Section 2-2-102(2)(b) through (f) of this Ordinance.

5. All information relied upon by Staff in analyzing an application pursuant to this Section shall be documented in the application file.

6. Staff, using information from the application as well as their own compilation of independent resources and analysis, shall draft a recommended decision with findings of fact and conclusions of law determining whether the application satisfies the criteria set forth in Section 2-2-102(2)(b) through (f) of this Ordinance.

7. If the recommended decision is to grant the application, a summary of the application and the recommended decision shall be publicly noticed by the Office of the Engineer once via legal notice in a newspaper of general circulation on the Reservation and shall be posted on the Board's website for a period of 45 days from the date the recommended decision is issued, during which time objections may be filed with the Engineer. If no objections are filed, or if all filed objections are withdrawn prior to being ruled upon, the application shall be granted by the Engineer within 10 days after expiration of the time for filing objections, or after the unconditional withdrawal of the last objection, whichever date is later.

8. If the recommended decision is to deny the application, the applicant may appeal the recommended decision to the Engineer pursuant to the provisions of Section 2-2-109 of this Ordinance.

9. If the recommended decision is to grant the application with conditions, the application shall be noticed to the public pursuant to the provisions of subsection (7) of this Section unless the applicant withdraws the application within 30 days of the issuance of the recommended decision or appeals the recommended decision to the Engineer pursuant to the provisions of Section 2-2-109 of this Ordinance. The application filing fee shall not be refunded upon withdrawal.

10. To be valid for processing, an objection to an application for the use of Flathead System Compact Water must assert and describe how the proposed development of Flathead System Compact Water fails to comply with one or more of the criteria set forth in Section 2-2-102(2)(b) through (f) of this Ordinance. Any such valid objection shall be resolved pursuant to the procedures set forth in Sections 2-2-110 through 2-2-112 of this Ordinance, provided however, that the burden of proof in the hearing before the Engineer or Designee shall be on the objector to prove by a preponderance of the evidence that the application fails to comply with one or more of the criteria set forth in Section 2-2-102(2)(b) through (f) of this Ordinance.

11. Unless an objection to the application is sustained, the application shall be granted within 10 days of expiration of the time to appeal the decision relating to any objection or after the exhaustion of the objector's last appeal, whichever date is later.

12. The priority date of any use of Flathead System Compact Water is the date of the Tribes' Flathead System Compact Water right as set forth in Article III.C.1.c of the Compact.

2-2-119. Appropriation Rights for Non-consumptive Geothermal Heating or Cooling Exchange Wells.

1. Appropriation Rights may be issued for non-consumptive geothermal heating or cooling exchange Wells with a maximum appropriation of 350 gallons a minute or less if all of the water extracted is returned without delay to the same source aquifer, if the distance between the extraction well and both the nearest existing well and any hydraulically connected surface waters is more than twice the distance between the extraction well and the Injection Well, and if all Well construction complies with the requirements of Section 1-1-111 of this Ordinance. Before appropriating water for a use described in this subsection (1), approval of the Engineer is required.

2. An applicant must file a completed application form and obtain approval from the Engineer before drilling any Well(s) or developing any spring(s) and putting water to use pursuant to this Section. A completed application shall also include:

a. proof that the applicant has the possessory interest or the written consent of the Person(s) with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use, and property rights in the diversion Works; and

b. a site-map showing the location of all proposed wells including latitude and longitude in decimal degrees. The map must also include the entire property boundaries where the Wells are proposed, or a minimum of 500 feet in radius around the proposed Well(s) or spring(s), whichever is greater, and include any of the following that exist or are proposed by the applicant:

i. well(s) including purpose of each well;

ii. sewage facilities including septic tanks and drainfields;

iii. buildings on the site, including identification of Well connections;

iv. property lines and ownerships;

v. irrigated acres per lot or unit well(s); and

vi. means of conveyance, water right points of diversions, and surface water features.

3. Upon receipt of a completed application form complying with subsection (2) of this Section, the Office of the Engineer shall date stamp the application form.

4. The Engineer or Designee shall review the application within 45 days of the date stamped on the application pursuant to subsection (3) of this Section, and within that timeframe may either approve the application or return a defective application to the applicant, together with a written explanation of the defects. If a corrected application is submitted within 30 days of its return by the Office of the Engineer, no new filing fee shall be required. Upon receiving a corrected application, which shall be date stamped by the Office of the Engineer upon receipt, the Engineer or Designee has 30 days from the date stamped on the corrected application pursuant to this subsection (4) to approve or deny the application.

5. If the Engineer or Designee does not approve or return an application within 45 days of the date stamped on the application pursuant to subsection (3) of this Section, the application shall be deemed approved. If the Engineer or Designee does not approve or deny a corrected application within 30 days of the date stamped on this application pursuant to subsection (4) of this Section, the application shall be deemed approved.

6. Once an applicant meets the requirements of subsection (1) of this Section and the application is approved pursuant to subsection (4) or (5) of this Section, as applicable, the Engineer shall issue an authorization to develop the Appropriation Right for a Heating/Cooling Exchange Well.

7. An Appropriation Right for a Heating/Cooling Exchange Well becomes valid and final when, within 120 days of completing the Well(s) or Developed Spring(s) and putting the water to beneficial use, an Appropriator files a Heating/Cooling Exchange completion form accurately and completely. The completion form must also include a copy of the companion Well Log Report(s) for the extraction Well and the Injection Well.

8. If an Appropriation Right for a Heating/Cooling Exchange Well is revoked by the Board pursuant to the provisions of Section 3-1-112(3) of this Ordinance, or is determined to be abandoned pursuant to the provisions of Sections 2-1-111 and 2-1-112 of this Ordinance, or is voluntarily abandoned, the Appropriator shall, within 180 days of the revocation or voluntary abandonment, follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202, MCA, or any successor procedures, standards and rules that are promulgated in State law, for any Well associated with the revoked or abandoned Appropriation Right for a Heating/Cooling Exchange Well.

2-2-120. Temporary Emergency Appropriations.

1. A Temporary Emergency Appropriation may be made without prior approval from the Board, but the use must cease immediately when the water is no longer required to meet the emergency.

2. A Temporary Emergency Appropriation does not include the use of water for the ordinary operation and maintenance of any trade or business, including but not limited to agricultural production.

3. Within 60 days after the cessation of a Temporary Emergency Appropriation, the Appropriator shall notify the Board of the use to which the water was put, the dates of use, and the estimated amount of water used.

4. Except as set forth in subsection (5) of this Section, a Temporary Emergency Appropriation may not include the use of Enclosed Storage.

5. When the Temporary Emergency Appropriation is made by a local governmental fire agency organized under Title 7, chapter 33, MCA, or applicable Tribal law, and the Temporary Emergency Appropriation is used only for emergency fire protection, the Temporary Emergency Appropriation may include enclosed storage.

2-2-121. Short-term use of a portion of the Tribal Water Right for road construction or dust abatement. The Tribes, or a Person with the written consent of the Tribes, may use a portion of the Tribal Water Right for road construction or dust abatement purposes, without the prior approval of the Board, subject to the following provisions:

1. For uses of 20,000 gallons or less per day from a single source of supply, no notice is required;

2. For uses greater than 20,000 gallons per day and less than 60,000 gallons per day from a single source of supply, a notice must be posted at the site of the diversion or withdrawal for the entire period during which water is being diverted or withdrawn. The notice posted shall be clearly legible and visible and provide the following information:

a. source of water;

b. purpose of use;

c. starting and ending date of diversion;

d. place of use;

e. diversion flow rate;

f. maximum volume of water to be diverted or withdrawn per day; and

g. name and contact information for the user of the water and for the Board.

3. For uses greater than 60,000 gallons per day from a single source of supply, the Board must be notified at least 10 days but not more than 45 days in advance of the initial use of the water. Notice must be posted at the site of the

diversion or withdrawal, as provided in subsection (2) of this Section. Notification to the Board must provide the following information:

a. source of water;

b. legal description of the point of diversion or withdrawal;

c. place of use;

d. map showing preceding three items;

e. purpose of use;

f. starting and ending date of use;

g. diversion flow rate;

h. maximum volume of water to be diverted or withdrawn per day; and

i. name and contact information for the user.

4. The diversion or withdrawal of water pursuant to this Section shall not adversely affect any legal use of water in existence as of the date of the diversion or withdrawal; and

5. If notified that the diversion or withdrawal of water pursuant to this Section is adversely affecting any legal use of water in existence as of the date of the diversion or withdrawal, the user will immediately cease diversion or withdrawal from that source of supply. To resume the diversion or withdrawal, the user may move the diversion or withdrawal to another source of supply, or may satisfy the Board and the holder(s) of the affected legal use(s) of water in existence as of the date of the diversion or withdrawal that use will not cause adverse effects.

2-2-122. Short-term use of an appropriation right that is not part of the Tribal Water Right for road construction or dust abatement.

1. An Appropriator may lease, for a term not to exceed 90 days, all or part of an Appropriation Right or Existing Use that is not part of the Tribal Water Right for road construction or dust abatement without the prior approval of the Board, subject to the requirements of this Section. The lease agreement must include the following information:

a. the name and address of the lessee;

b. the name of the owner of the Appropriation Right or Existing Use;

c. the number of the Appropriation Right or Existing Use;

d. the purpose of use of water for which the lease is being made;

e. the source of water to be appropriated;

f. the starting and ending date of the proposed use of water;

g. the proposed point of diversion;

h. the proposed place of use;

i. the diversion flow rate and volume of water to be used during the period of use; and

j. a description of how the prior use of water will be reduced to accommodate the temporary change of use of the Appropriation Right or Existing Use, including the number and location of acres to be removed from irrigation, if applicable.

2. A short-term lease of an Appropriation Right or Existing Use under this Section may not exceed 60,000 gallons a day or the amount of the Appropriation Right or Existing Use, whichever is less. Any combination of short-term leases cannot exceed 120,000 gallons a day for one project.

3. Except as provided in subsection (7) of this Section, the following information must be submitted to the Board at least 2 days prior to the use of water by a lessee under this Section:

a. a copy of the Publication notice or copies of the individual notice required under subsection (4) of this Section;

b. a copy of the lease agreement; and

c. for a combination of short-term leases greater than 60,000 gallons a day for one project, an analysis by the lessee of any potential adverse effects and a description of planned actions to mitigate any potential adverse effects to Appropriators in the area of the proposed point of diversion.

4. Except as provided in subsection (7) of this Section, the lessee of an Appropriation Right or Existing Use under this section shall, 30 days prior to the use of the water, publish a notice of the proposed use of water once in a newspaper of general circulation in the area of the diversion or mail individual notice to potentially affected Appropriators in the area of the proposed point of diversion. The published notice or the individual notice must contain the information listed in subsections (1)(a) through (1)(j) and (3)(c) of this Section.

5. Complaints regarding temporary use

a. an Appropriator, whether the water right is prior or subsequent in priority to the short-term lease acquired by a Person under this Section, who cannot satisfy in full the Appropriator's right during the time that the short-term lessee is diverting water, may make a complaint to the Engineer pursuant to Section 3-1-102 of this Ordinance and cause the short-term lessee's diversion to be discontinued.

b. the diversion is discontinued until the complaining Appropriator's water right is satisfied or until the lessee establishes to the Engineer that the discontinuance has had no effect on the complaining Appropriator's water right. Upon establishment that discontinuance has not had an effect, the Engineer shall enter an order allowing the diversion to continue.

6. This Section does not limit the remedies available to an Appropriator to enjoin or to seek damages from a Person appropriating water under this Section.

7. a. a consolidated city-county or a county or an incorporated city or town is not subject to the requirements of subsections (3)(a) and (4) of this Section when conducting dust abatement that was not scheduled or contracted for 30 days or more prior to the use of the water.

b. a consolidated city-county or a county or an incorporated city or town that does not publish notice as provided in subsection (4) of this Section shall post a copy of the lease agreement at the point of diversion at least 24 hours prior to and during the time that water is diverted.

2-2-123. Wetland Protective Appropriation Rights.

1. Pursuant to the provisions of Sections 2-2-101 et seq. of this Ordinance, a Wetland Protective Appropriation Right for a Natural Wetland or Restored Natural Wetland may be issued, subject to the following limitations:

a. except as authorized by Appropriation Rights issued pursuant to Section 1-1-107(1)(k) of this Ordinance, irrigation return flows may not be used as a source for an Appropriation Right issued pursuant to this Section.

b. No Wetland Protective Appropriation Right shall be issued for any Wetland using Pits, Pit-dams, or Constructed Ponds.

c. No Wetland Protective Appropriation Right shall be issued for any Wetland occurring solely as a result of seepage from irrigation reservoirs, canals, laterals or ditches.

d. No Wetland Protective Appropriation Right shall be used for any other purpose and shall not be changed to another purpose.

2. Wetlands eligible for Wetlands Protective Appropriation Rights are:

a. Those Wetlands identified on the map of Wetlands eligible for Wetlands Protective Appropriations Rights (available from the Office of the Engineer); or

b. Those Wetlands not identified on the Map if:

i. the proposed use is a Restored Natural Wetland;

ii. the applicant provides a site-specific Wetlands delineation, using any delineation method approved by the Engineer, that includes:

(1) the total number of acres and a detailed map showing the proposed boundary of the Wetland for which the Wetland Protective Appropriation Right is being applied; and

(2) an identification of the Wetlands delineation method used, along with supporting field data.

2-2-124. Wetland Quantified Appropriation Rights.

1. Pursuant to the provisions of Sections 2-2-101 et seq. of this Ordinance, an Appropriations Right or Change in Use authorization to divert, impound, or withdraw surface water or Groundwater for a Wetland purpose may be issued.

2. All Wetlands that utilize man-made diversions, impoundments, withdrawals, excavations, or other artificial means for the purposes of Appropriation for either all or a portion of a Wetland water supply in excess of a Natural Wetland water supply or Restored Natural Wetland water supply shall obtain, in advance of Appropriation, an Appropriation Right or Change in Use authorization for that Wetland purpose.

3. In addition to the information required by Sections 1-1-110 and 2-2-104 of this Ordinance, an application for an Appropriation Right or Change in Use authorization pursuant to this section shall include the following information:

a. A delineation of pre-project existing Wetlands and post-project Wetlands using a Wetland delineation method approved by the Engineer. The delineation shall describe the following pre-project and post-project Wetland attributes:

i. the outer Wetland boundary and area in acres;

ii. the boundaries of permanently inundated areas, depth in feet, and area in acres;

iii. the boundaries of seasonally inundated areas, period of inundation, depth in feet, and area in acres;

iv. the boundaries of permanently saturated areas and area in acres;

v. the boundaries of seasonally saturated areas, period of saturation, and area in acres; and

vi. Wetland vegetation boundaries and area in acres.

b. The location and description of the manmade diversions, impoundments; withdrawals, excavations, or other artificial means for the purposes of Appropriation;

c. The flow rate and volume of water to be appropriated in monthly time steps; however, the Office of the Engineer may require a more frequent quantification time step;

d. The consumptive volume for each Wetland attribute delineated pursuant to Section 2-2-124(a) of this Ordinance in monthly time steps; however, the Office of the Engineer may require a more frequent quantification time step;

e. non-consumed water, including flow rate and volume estimates, and a description of return flows and their eventual destination and timing; and

f. the volume of Natural Wetland water supply, if applicable, in monthly time steps.

2-2-125. Notice of Trust Status Conversion for Lands with Appurtenant Water Rights Arising Under State Law Acquired by the Tribes. As provided for by the Compact, Article III.H, the following process shall be used to notify the Water Management Board of the transfer of Tribally-owned fee land to trust status:

1. Starting upon the Effective Date of the Compact, the Tribes may file a Trust Transfer form with the Board for any lands acquired by the Tribes with appurtenant Water Rights Arising Under State Law that have been taken into trust by the United States on behalf of the Tribes.

2. A copy of the deed transferring the fee land to trust status shall be attached to the form.

2-2-126. Water Management Board Adjustment of Priority Date Pursuant to Compact. Upon submission of a Trust Transfer form by the Tribes, the priority date of any Water Rights Arising Under State Law appurtenant to land identified on the Trust Transfer form shall be adjusted by the Water Management Board to July 16, 1855. The Board shall cause the adjusted priority date to be entered into the Reservation water rights database identified in Section 1-1-108 of this Ordinance.

2-2-127. Tribal Utilization of Water Right with Adjusted Priority Date. Any water right whose priority date is adjusted pursuant to Section 2-2-126 of this Ordinance shall be subject to the following use conditions:

1. The water right must be used as historically used; or

2. Changes to the water right must be made pursuant to the provisions set for the in Article IV.B.4 of the Compact and Section 2-2-101 et seq. of this Law of Administration.

2-2-128. Public Water Supply Reporting Requirements

1. The following shall comply with the reporting requirements set forth in subsection (2) of this Section:

a. any new Public Water Supply System approved pursuant to this Ordinance;

b. any Public Water Supply System in existence prior to the effective date of this Ordinance whose authorized use is expanded pursuant to this Ordinance.

2. On an annual basis, any entity responsible for the operation of a Public Water Supply System identified in subsection (1) of this Section shall report to the Office of the Engineer the total volume by month of pumping or diversion of the Public Water Supply System.

Chapter III Enforcement

3-1-101. Scope

1. The enforcement powers set forth in this Chapter apply to the resolution of disputes between Appropriators who are not served by the Flathead Indian Irrigation Project, or between any Appropriators who are not served by the FIIP and any water user(s) or holders of Existing Rights, if any, whose use of water is served by the FIIP. Disputes exclusively between or among users whose water is

delivered by the FIIP shall remain subject to the oversight of the Project Operator and the Enforcement provisions of this Ordinance shall not apply. The powers and duties set forth in this Chapter, as they extend to uses of the Tribal Water Right within the FIIP, extend only to the resolution of disputes concerning the delivery of water to FIIP diversion facilities and shall not extend to the administration of that water in FIIP facilities or on lands served by the FIIP, which shall remain subject to the oversight of the Project Operator.

2. Nothing in this Chapter, or in the Ordinance, is intended to preclude a water user from working informally with other water users, any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, or the Engineer, to resolve disputes or real-time water operation issues without recourse to the provisions of this Chapter. A synopsis of all such resolutions between a water user and any Water Commissioner or the Engineer shall be reduced to writing, and dated, a copy of which shall be kept in the Office of the Engineer and available for public inspection. A synopsis of any such resolution between or among water users may be reduced to writing. Provided, however, that any water user not party to any such informal resolution who believes himself or herself to be injured by the informal resolution may seek redress by invoking the provisions of this Chapter, subject to the limitation concerning FIIP water use set forth in subsection (1) of this Section, to challenge the informal resolution.

3. Any of the timeframes set forth in Sections 3-1-102 through 3-1-107 of this Ordinance may be extended upon mutual agreement of the parties to any dispute.

3-1-102. Complaint to the Engineer Regarding Actions or Inactions Between Appropriators.

1. Subject to the limitation concerning FIIP water use set forth in Section 3-1-101(1) of this Ordinance, any Appropriator aggrieved by the action or inaction of any other Appropriator, or by any Person the Complainant believes is Wasting water to the detriment of a right to use water the Complainant possesses, may file a Complaint with the Engineer. Such Complaint must be submitted in writing and describe specifically the action or inaction being complained of and the justification for the Complaint.

2. Upon receipt of a Complaint, the Office of the Engineer shall date stamp it and return a copy to the Complainant along with a written statement indicating that informal resolution of the dispute between the Appropriators, or between an Appropriator and a Person accused of Wasting water, may provide a more timely and cost-effective remedy than having the Complaint adjudicated by the Engineer.

3. Within 3 days of the receipt of the Complaint, the Office of the Engineer shall serve a copy of it on the Appropriator or other Person whose action or inaction is being complained of (the "Respondent"), and shall post notice of the Complaint on the Board's website. The notice to the Respondent shall include a written statement indicating that informal resolution of the dispute between the Complainant and the Respondent may provide a more timely and cost-effective remedy than having the petition adjudicated by the Engineer.

3-1-103. Resolution of Complaint.

1. No later than 15 days after the provision of notice of the Complaint to the Respondent, pursuant to Section 3-1-102(3) of this Ordinance, the Engineer or Designee shall hold a hearing on the Complaint, provided, however that the Engineer or Designee may take an additional 10 days before holding the hearing to perform such independent investigation into the Complaint as the Engineer

or Designee deems appropriate. At such time, both the Complainant and the Respondent shall explain their positions concerning the matter complained of. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

2. A decision by the Engineer or Designee on the Complaint shall be made in writing within 7 days after the completion of the hearing.

3. The decision of the Engineer or Designee may include an award of declaratory relief, and/or the imposition of conditions on the use or exercise of a water right. Such conditions may include, but are not limited to, instructions regarding the proper delivery of water, the installation of measuring devices, the construction of suitable ditches to carry the return waters from any ditch or lands to the main stream or proper waste way, or the mandate of structural changes to diversion structures.

4. Any Complainant or Respondent dissatisfied with the final decision of the Engineer or Designee may appeal to the Board (and become an Appellant) and obtain review of the Engineer's or Designee's decision. A notice of appeal to the Board must be received by the Board within 30 days of the issuance of the Engineer's or Designee's written decision. The decision of the Engineer or Designee shall not be stayed during the pendency of the appeal unless the Board expressly orders such a stay upon motion of the Complainant or Respondent.

3-1-104. Appeal to the Board.

1. Upon receipt of a notice of appeal pursuant to Section 3-1-103(4) of this Ordinance, or any other Section of this Ordinance that provides for appeal to the Board pursuant to the provisions of this Section, the Board, acting through the Office of the Engineer, shall date stamp the notice and return a copy to the Appellant. Within three days of receipt of the notice of appeal, the Board, acting through the Office of the Engineer, shall serve a copy of the notice of appeal on the other party to the dispute (who becomes the Appellee).

2. Either party to the appeal may elect to have oral argument prior to the resolution of the appeal. The Appellant must request oral argument at the time of the filing of the notice of appeal or the Appellant's right to oral argument is waived. The Appellee must request oral argument within 10 days of the Appellee's receipt of the notice of appeal pursuant to subsection (1) of this Section, or the Appellee's right to oral argument is waived. If either party to the appeal requests oral argument, such argument must be held within 60 days of the filing of the notice of appeal, or within 30 days of the receipt of evidence or argument pursuant to subsection (3) or (4) of this Section, whichever date is later.

3. Within 60 days from the filing of the notice of appeal, or any extended period of time, not to exceed 60 days, granted by the Board, the Appellant and Appellee may each submit additional factual evidence and legal argument concerning the appeal to the Board and shall serve copies of the same on the other party to the dispute.

4. Either party to the appeal shall have 60 days from the date of receipt of the evidence or argument served pursuant to subsection (3) of this Section, or any extended period of time granted by the Board, not to exceed 60 days, to respond in writing to the evidence and argument submitted by the other party to the dispute pursuant to subsection (3) of this Section.

5. If oral argument is held, the argument shall be recorded electronically and an official record maintained.

6. A decision by the Board on the appeal shall be made in writing within 60 days after the completion of oral argument or, if the right to oral argument is waived, within 60 days after the deadline for the submission of evidence and argument pursuant to subsections (3) and (4) of this Section, whichever is later. The written decision shall set forth the ruling of the Board along with a statement of the reasons therefor.

7. In ruling on the appeal, the Board may sustain the decision of the Engineer or Designee, may overturn that decision and set aside any relief ordered by the Engineer or Designee, or may remand the matter to the Engineer or Designee for such further proceedings as may be specified in the Board's written decision.

3-1-105. Petition to the Engineer by Any Appropriator Aggrieved by Actions or Inactions of a Water Commissioner.

1. Any Appropriator aggrieved by the action or inaction or written directive from any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, may petition the Engineer for relief (and become a Petitioner). Such petition must be submitted in writing and describe with particularity the action, inaction or directive giving rise to the petition and the justification for the petition.

2. Upon receipt of a petition, the Office of the Engineer shall date stamp it and return a copy to the Petitioner along with a written statement indicating that informal resolution of the dispute between the Petitioner and the Water Commissioner may provide a more timely and cost-effective remedy than having the petition adjudicated by the Engineer.

3. Within 3 days of the date stamped on the petition pursuant to subsection (2) of this Section, the Office of the Engineer shall serve a copy of it on the Water Commissioner whose action, inaction or written directive is being petitioned against, and shall post notice of the Petition on the Board's website.

3-1-106. Resolution of Petition.

1. A Petitioner may elect to have the Petition decided on the record after submission of additional evidence and argument, or after hearing. If a Petitioner elects to have a hearing, that request must be made at the same time as the filing of the Petition or the right to a hearing is waived.

2. The Water Commissioner may elect to have the Petition decided after a hearing. The request for a hearing must be made within 5 days of the Water Commissioner's receipt of notice of the Petition pursuant to Section 3-1-105(3) of this Ordinance or the Water Commissioner's right to a hearing is waived.

3. If either the Petitioner or the Water Commissioner elects to have the Petition resolved after a hearing, the Engineer or Designee shall hold a hearing on the Petition no later than 14 days after the filing of the Petition, or within 14 days of the expiration of the time for the submission of evidence or argument pursuant to subsection (5) of this Section, whichever date is later; provided, however that the Engineer or Designee may take an additional 10 days before holding the hearing to perform such independent investigation into the petition as the Engineer or Designee deems appropriate.

4. Within 5 days from the filing of the Petition, or any extended period of time, not to exceed 5 days, granted by the Engineer, the Petitioner and Commissioner may each submit additional factual evidence and legal argument

concerning the Petition to the Engineer or Designee and shall serve copies of the same on the other party to the dispute.

5. Either party to the dispute shall have 5 days from the date of receipt of the evidence or argument served pursuant to subsection (4) of this Section, or any extended period of time granted by the Engineer or Designee, not to exceed 5 days, to respond in writing to the evidence and argument submitted by the other party to the dispute pursuant to subsection (4) of this Section.

6. The Petitioner shall bear the burden of proof before the Engineer or Designee.

7. The hearing shall be recorded electronically and an official record maintained. All evidence that, in the opinion of the Engineer or Designee, possesses probative value shall be admitted, including hearsay, if it is the type of evidence commonly relied upon by reasonably prudent Persons in the conduct of their normal business affairs. Rules of privilege recognized by law shall be given effect. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.

8. A decision by the Engineer or Designee on the Petition shall be made in writing within 7 days after the completion of the hearing or, if the right to a hearing is waived, within 7 days after the deadline for the submission of evidence and argument pursuant to subsections (4) and (5) of this Section, whichever is later. If the individual who conducted the hearing becomes unavailable to the Office of the Engineer, a decision may be prepared by an individual who has read the record only if the demeanor of witnesses is considered immaterial by all parties; if any party considers the demeanor of any witness to be material to the resolution of the petition, a new hearing must be held.

9. The decision of the Engineer or Designee may include an award of declaratory relief, and/or the imposition of conditions on the use or exercise of an Appropriation Right or Existing Use. Such conditions may include, but are not limited to, the installation of measuring devices, the construction of suitable ditches to carry the return waters from any ditch or lands to the main stream or proper waste way, or the mandate of structural changes to diversion structures.

10. Any Petitioner or Commissioner dissatisfied with the final decision of the Engineer or Designee may appeal to the Board (and become an Appellant) and obtain review of the Engineer's or Designee's decision. A notice of appeal to the Board must be received by the Board within 30 days of the issuance of the Engineer's or Designee's written decision.

3-1-107. Appeal to the Board from a Decision on a Petition. The process for appeal to the Board of the Engineer's or Designee's decision on a Petition shall be as set forth in Section 3-1-104 of this Ordinance.

3-1-108. Appeal from a Decision of the Board. The process for appeal from a decision of the Board issued pursuant to Section 3-1-104 of this Ordinance shall be as set forth in Section 2-2-112 of this Ordinance.

3-1-109. Emergency Enforcement Powers of the Engineer. In an Emergency, the Engineer, or any Staff who is so directed by the Engineer, or any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, shall have the authority to lock, remove, render inoperative, shut down, close, seal, cap, modify, or otherwise control methods of diversions and withdrawals, and obstructions to the flow of water, subject to expedited appeal to the Board by the affected Person, as provided in Section 3-1-110 of this Ordinance.

3-1-110. Additional Enforcement Powers of the Engineer.

1. The Engineer, or any Staff who is so directed by the Engineer, or any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, may enter upon lands on the Reservation with reasonable notice to the owner or occupant, to investigate and inspect methods of diversion, withdrawal, and other activities affecting water quantity, to install measuring devices at the expense of the water user on surface and Groundwater diversions for the purpose of enforcing and administering this Ordinance, to monitor water use, water quality, and diversion structures.

2. The Engineer, or any Staff who is so directed by the Engineer, or any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, may take action to prevent the Illegal use of water, including, but not limited to the temporary decommissioning of head gates or other diversion Works.

3. The Engineer may issue written notices of violation to Appropriators and to Illegal users of water for violations of this Ordinance or of the terms and conditions of any Appropriation Right or Existing Use or of any lawful order of the Engineer or the Board or any action or directive of any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance.

4. Any notice issued pursuant to subsection (3) of this Section shall specify the particular violation or violations, the step(s) to be taken to come into compliance, and identify a reasonable time frame within which such steps are to be taken.

5. In the event of non-compliance with any written notice issued pursuant to subsection (3) of this Section within the specified time frame, the Engineer may move the Board to exercise its powers pursuant to Sections 3-1-112 and 3-1-113 of this Ordinance.

6. Upon receipt of any written recommendation, pursuant to Section 3-1-115(3) of this Ordinance, from any Water Commissioner, the Engineer or Designee may reject the recommendation or may issue notice of intent to hold a hearing to determine whether the imposition of such conditions identified in the recommendation is warranted. The process for the consideration and resolution of any such matter shall be as set forth in Sections 3-1-105 through 3-1-108 of this Ordinance, with the recommendation being treated as a petition, the Water Commissioner as the Petitioner and the affected water user(s) as Respondent(s).

3-1-111. Expedited Appeal to the Board in the Event of Certain Actions by the Engineer.

1. Any Appropriator whose use of water is affected by an action taken pursuant to Section 3-1-109 or 3-1-110(2) of this Ordinance may file a written notice of appeal with the Board (and become an Appellant). The notice of appeal must describe with particularity the action being appealed and the justification for the appeal.

2. The Board must immediately notify the Engineer of the filing of a notice of appeal pursuant to subsection (1) of this Section, and must hear the appeal within 10 days of the notice of appeal being filed.

3. If the Board finds in favor of the Appellant, it may award appropriate relief, including declaratory relief, but not monetary penalties against the Office of the Engineer or any employee thereof, including any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance, acting in either their professional or personal capacities.

3-1-112. Additional Enforcement Powers of the Board. Upon motion by the Engineer, and after notice to any affected Appropriator and the opportunity for all parties to be heard, the Board may:

1. Impose fines, as set forth in Section 3-1-113 of this Ordinance.

2. Impose conditions on the future use of any Appropriation Right to prevent further violation, but only upon a finding that the holder of any such Appropriation Right is violating or has violated any provision of that Appropriation Right, or is violating or has violated any order issued by the Engineer or any directive of any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance concerning the use of that permit. The process for appeal from any Board decision imposing conditions pursuant to this Section shall be as set forth in Section 2-2-112 of this Ordinance.

3. Revoke or suspend any Appropriation Right, but only upon a finding that the holder of any such Appropriation Right is willfully violating or has willfully violated any provision of that Appropriation Right, or is willfully violating or has willfully violated any order issued by the Engineer concerning the use of that Appropriation Right. The process for appeal from any Board decision revoking or suspending a permit shall be as set forth in Section 2-2-112 of this Ordinance.

3-1-113. Fines.

1. The Board, pursuant to the provisions of this Section, may impose a fine not to exceed $1,000 per violation on any Person who fails to comply with the provisions of this Ordinance, including any written order of the Board or Engineer or written directive of any Water Commissioner.

2. If a Person is using water under the color of law, fines may only be imposed commencing on the day after the resolution of any appeal from the written order of the Board or Engineer or action or written directive of any Water Commissioner whose violation gives rise to the proposed imposition of fines, or the deadline for filing an appeal if no appeal is filed, after receipt of a written notice of violation pursuant to Section 3-1-111(2) of this Ordinance.

3. If a Person is using water Illegally, the Board may impose fines on that Person at any time commencing from the date of that Person's receipt of the notice of violation from the Engineer pursuant to section 3-1-111(3)(a) of this Ordinance, if the Illegal use is not ceased immediately upon receipt of the notice of violation.

4. Each day of violation constitutes a separate violation.

5. The process for appeal from any Board decision imposing fines pursuant to this Section shall be as set forth in Section 2-2-112 of this Ordinance.

3-1-114. Appointment of Water Commissioners. Pursuant to Article IV.I.5.d of the Compact, the Board may appoint one or more Water Commissioners to provide day-to-day administration of water on the Reservation. The appointment shall specify the geographic area for which the commissioner shall have responsibility.

3-1-115. Powers and Duties of Water Commissioners. Subject to the jurisdictional limitation set forth in Article IV.I.5.d.ii of the Compact and Section 3-1-101(1) of this Ordinance, any Water Commissioner appointed pursuant to Section 3-1-114 of this Ordinance:

1. Shall, consistent with the terms and conditions of the Compact, the federal legislation ratifying the Compact, this Ordinance, and the terms of all applicable Appropriation Rights and Existing Uses, distribute water in the proper priority;

2. Shall, as near as may be practicable, divide, regulate and control the use of the water of all streams, springs, lakes or other sources of water within that Water Commissioner's district to prevent the Waste of water or its use in excess

of the volume to which any Appropriator is lawfully entitled, including through the opening and closing of headgates. Whenever a Water Commissioner regulates a headgate to a ditch or the controlling Works of reservoirs, it shall be that Water Commissioner's duty to attach to such headgate or controlling Works a written notice, properly dated and signed, setting forth the fact that such headgate or controlling Works has been properly regulated and is wholly under the Water Commissioner's control and such notice shall be a legal notice to all parties interested in the division and distribution of the water of such ditch or reservoir;

3. Shall notify the Engineer in writing of the non-compliance of any water user with a prior order of the Engineer or the Board or any prior written directive of that Water Commissioner issued pursuant to subsection (4) of this Section;

4. May issue written directives to any Appropriator, or any Illegal user of water, concerning day-to-day actions that must be taken to facilitate the execution of the duties of that Water Commissioner as set forth in subsections (1) and (2) of this Section; and

5. May recommend to the Engineer, in writing, conditions to be placed on the exercise of any Appropriation Right or Existing Use on the Reservation, including the requirement of measuring devices and the necessity of structural changes to diversion or other structures. The Water Commissioner shall serve copies of any such written recommendation on the Appropriator(s) whose Appropriation Right(s) or Existing Use(s) are referenced in the recommendation.

3-1-116. Recourse from Water Commissioner Decisions. Any Person who may be injured by the action or inaction of a Water Commissioner has the right to petition the Engineer pursuant to the provisions of Section 3-1-105 of this Ordinance.

3-1-117. Removal of Water Commissioners. Water Commissioners shall serve at the pleasure of the Board and may be removed by unanimous vote of the Board at any time.

Section 3. Section 3-7-211, MCA, is amended to read:

"3-7-211. Appointment of water commissioners. ~~The~~ *Except as provided in [section 2], the* district court having jurisdiction over the hydrologically interrelated portion of a water division, as described in 85-2-231(3), in which the controversy arises may appoint and supervise a water commissioner as provided for in Title 85, chapter 5."

Section 4. Section 85-2-111, MCA, is amended to read:

"85-2-111. Department powers. *(1)* The department may:

~~(1)~~*(a)* enter into agreements with federal, state, or local agencies necessary to carry out this chapter;

~~(2)~~*(b)* apply for, accept, administer, and expend funds, grants, gifts, and loans from the federal government or any other public or private source for the purposes of this chapter.

(2) The department shall, pursuant to [sections 1 and 2], recognize the jurisdiction of the Flathead reservation water management board over water rights, including permitting of new uses, changes of existing uses, enforcement of water right calls, and all aspects of enforcement within the exterior boundaries of the Flathead Indian reservation."

Section 5. Section 85-2-114, MCA, is amended to read:

"85-2-114. Judicial enforcement. (1) If the department ascertains, by a means reasonably considered sufficient by it, that a person is wasting water, using water unlawfully, preventing water from moving to another person having a prior right to use the water, or violating a provision of this chapter, it may petition the district court supervising the distribution of water among appropriators from the source to:

(a) regulate the controlling works of an appropriation as may be necessary to prevent the wasting or unlawful use of water or to secure water to a person having a prior right to its use;

(b) order the person wasting, unlawfully using, or interfering with another's rightful use of the water to cease and desist from doing so and to take steps that may be necessary to remedy the waste, unlawful use, or interference; or

(c) issue a temporary, preliminary, or permanent injunction to prevent a violation of this chapter. Notwithstanding the provisions of Title 27, chapter 19, part 3, a temporary restraining order must be granted if it clearly appears from the specific facts shown by affidavit or by the verified complaint that a provision of this chapter is being violated.

(2) Upon the issuance of an order or injunction, the department may attach to the controlling works a written notice, properly dated and signed, setting forth the fact that the controlling works have been properly regulated by it. The notice constitutes legal notice to all persons interested in the appropriation or distribution of the water.

(3) The department may also direct its own attorney or request the attorney general or county attorney to bring suit to enjoin the waste, unlawful use, interference, or violation.

(4) The county attorney or the attorney general may bring suit to enjoin the waste, unlawful use, interference, or violation or bring an action under 85-2-122(1) without being requested to do so by the department.

(5) A county attorney who takes action pursuant to subsection (3) or (4) may request assistance from the attorney general.

(6) When enforcing the provisions of this section, the department, the county attorney, and the attorney general shall give priority to protecting the water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation.

(7) After considering the provisions of subsection (6), the department may attempt to obtain voluntary compliance through warning, conference, or any other appropriate means before petitioning the district court under subsection (1). An attempt to obtain voluntary compliance under this subsection must extend over a period of at least 7 days and may not exceed 30 working days.

(8) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

Section 6. Section 85-2-301, MCA, is amended to read:

"85-2-301. Right to appropriate — recognition and confirmation of permits issued after July 1, 1973. (1) After July 1, 1973, a person may not appropriate water except as provided in this chapter. A person may appropriate water only for a beneficial use.

(2) (a) Only the department may appropriate water by permit for transport outside the following river basins:

(i) the Clark Fork River and its tributaries to its confluence with Lake Pend Oreille in Idaho;

(ii) the Kootenai River and its tributaries to its confluence with Kootenay Lake in British Columbia;

(iii) the St. Mary River and its tributaries to its confluence with the Oldman River in Alberta;

(iv) the Little Missouri River and its tributaries to its confluence with Lake Sakakawea in North Dakota;

(v) the Missouri River and its tributaries to its confluence with the Yellowstone River in North Dakota; and

(vi) the Yellowstone River and its tributaries to its confluence with the Missouri River in North Dakota.

(b) The department may lease water subject to this subsection (2) under the provisions of 85-2-141.

(3) A right to appropriate water may not be acquired by any other method, including by adverse use, adverse possession, prescription, or estoppel. The method prescribed by this chapter is exclusive.

(4) All permit actions of the department after July 1, 1973, are recognized and confirmed subject to this part and any terms, conditions, and limitations placed on a permit by the department.

(5) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

Section 7. Section 85-2-302, MCA, is amended to read:

"85-2-302. Application for permit or change in appropriation right. (1) Except as provided in 85-2-306 and 85-2-369, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or related distribution works unless the person applies for and receives a permit or an authorization for a change in appropriation right from the department.

(2) The department shall adopt rules that are necessary to determine whether or not an application is correct and complete, based on the provisions applicable to issuance of a permit under this part or a change in appropriation right pursuant to Title 85, chapter 2, part 4. The rules must be adopted in compliance with Title 2, chapter 4.

(3) The application must be made on a form prescribed by the department. The department shall make the forms available through its offices.

(4) (a) Subject to subsection (4)(b), the applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under subsection (2) that are in effect at the time the application is submitted.

(b) If an application is for a permit to appropriate water with a point of diversion, conveyance, or place of use on national forest system lands, the application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(5) The department shall notify the applicant of any defects in an application within 180 days. The defects must be identified by reference to the rules adopted under subsection (2). If the department does not notify the applicant of any defects within 180 days, the application must be treated as a correct and complete application.

(6) An application does not lose priority of filing because of defects if the application is corrected or completed within 30 days of the date of notification of the defects or within a further time as the department may allow, but not to exceed 90 days from the date of notification. If an application is made correct and complete after the mandated time period, but within 90 days of the date of notification of the defects, the priority date of the application is the date the application is made correct and complete.

(7) An application not corrected or completed within 90 days from the date of notification of the defects is terminated.

(8) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

Section 8. Section 85-2-306, MCA, is amended to read:

"85-2-306. Exceptions to permit requirements. (1) (a) Except as provided in subsection (1)(b), ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works.

(b) If another person has rights in the ground water development works, water may be appropriated with the written consent of the person with those property rights or, if the ground water development works are on national forest system lands, with any prior written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the certificate.

(c) If the person does not have a possessory interest in the real property from which the ground water may be appropriated, the person shall provide to the owner of the real property written notification of the works and the person's intent to appropriate ground water from the works. The written notification must be provided to the landowner at least 30 days prior to constructing any associated works or, if no new or expanded works are proposed, 30 days prior to appropriating the water. The written notification under this subsection is a notice requirement only and does not create an easement in or over the real property where the ground water development works are located.

(2) Inside the boundaries of a controlled ground water area, ground water may be appropriated only:

(a) according to a permit received pursuant to 85-2-508; or

(b) according to the requirements of a rule promulgated pursuant to 85-2-506.

(3) (a) Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring:

(i) when the appropriation is made by a local governmental fire agency organized under Title 7, chapter 33, and the appropriation is used only for emergency fire protection, which may include enclosed storage;

(ii) when a maximum appropriation of 350 gallons a minute or less is used in nonconsumptive geothermal heating or cooling exchange applications, all of the water extracted is returned without delay to the same source aquifer, and the distance between the extraction well and both the nearest existing well and the hydraulically connected surface waters is more than twice the distance between the extraction well and the injection well;

(iii) when the appropriation is outside a stream depletion zone, is 35 gallons a minute or less, and does not exceed 10 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding 10 acre-feet, regardless of the flow rate, requires a permit; or

(iv) when the appropriation is within a stream depletion zone, is 20 gallons a minute or less, and does not exceed 2 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding this limitation requires a permit.

(b) (i) Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department through its offices.

(ii) Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iii) If a notice is not corrected and completed within the time allowed, the priority date of appropriation is the date of refiling a correct and complete notice with the department.

(c) A certificate of water right may not be issued until a correct and complete notice has been filed with the department, including proof of landowner notification or a written federal special use authorization as necessary under subsection (1). The original of the certificate must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(4) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (3), with the department to perfect the water right. The filing of a claim pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation is the date of the filing of a notice, as provided in subsection (3), or the date of the filing of the claim of existing water right.

(5) An appropriation under subsection (4) is an existing right, and a permit is not required. However, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of 35 gallons a minute or less, not to exceed 10 acre-feet a year, the department shall issue a certificate of water right. If a certificate is issued under this section, a certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(6) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if:

(a) the maximum capacity of the impoundment or pit is less than 15 acre-feet;

(b) the appropriation is less than 30 acre-feet a year;

(c) the appropriation is from a source other than a perennial flowing stream; and

(d) the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger.

(7) (a) Within 60 days after constructing an impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. Subject to subsection (7)(b), upon receipt of a correct and complete application for a stock water provisional permit, the department shall automatically issue a provisional permit. If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(b) If the impoundment or pit is on national forest system lands, an application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(8) A person may also appropriate water without applying for or prior to receiving a permit under rules adopted by the department under 85-2-113.

(9) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

Section 9. Section 85-2-427, MCA, is amended to read:

"85-2-427. (Temporary) Temporary lease of appropriation right — requirements — rulemaking. (1) Applications to temporarily lease an appropriation right that comply with the requirements of this section are not subject to the provisions of 85-2-402, 85-2-407, 85-2-408, or 85-2-436. After obtaining department approval pursuant to this section, an appropriator may temporarily lease an appropriation right.

(2) The amount of water leased may not exceed the total consumptive use of the appropriation right. For an irrigation right, the consumptive volume may not exceed 1 acre-foot per acre irrigated. The department shall determine the consumptive volume limits for other uses by rule.

(3) (a) Each appropriation right leased pursuant to this section:

(i) must have been used within 5 years prior to the application date;

(ii) may be leased only during the period of diversion for the appropriation right; and

(iii) may not be leased for more than 2 years one time during any consecutive 10-year period.

(b) The volume of water leased may not exceed 180 acre-feet per year.

(c) The point of diversion for the appropriation right may not be changed.

(4) The use of any appropriation rights on the place of use associated with a leased appropriation right is forbidden during the term of the lease.

(5) Storage may not be added to the leased appropriation right at the point of diversion or the original place of use.

(6) This section does not apply to changes in an appropriation right that would result in leased water being transported outside Montana. Proposed out-of-state uses are subject to the provisions of 85-2-402.

(7) Water leased pursuant to this section must be measured at the point of diversion by a meter approved by the department. The appropriator shall report

the amount of water measured at the end of the year in which the lease occurred or upon request of the department.

(8) An applicant proposing to lease an appropriation right pursuant to this section shall submit a correct and complete application on a form provided by the department and a fee as established by rule. The application must include:

(a) the name and address of each lessee;

(b) the name of all owners of each appropriation right;

(c) the number of each appropriation right;

(d) the proposed use and the place of use for the leased water;

(e) the source of water to be appropriated;

(f) the start and end dates of the proposed lease;

(g) the proposed diversion flow rate and volume of water to be used during the lease;

(h) evidence that the appropriation right has been used within the last 5 years;

(i) a description of how the existing use of the appropriation rights would cease at the place of use during the lease period, including the number and location of acres to be removed from irrigation, if applicable; and

(j) an analysis of potential adverse effects and a description of planned actions to mitigate potential adverse effects.

(9) Within 30 days of receiving the application, the department shall approve or deny the application. An approved application must be correct and complete and meet the requirements of this section. The department may approve an application with conditions.

(10) After approval, the department shall provide notice of the proposed lease that includes the information in subsections (8)(a) through (8)(g). The department shall:

(a) mail individual notice to potentially affected appropriators identified by the department in the area of the point of diversion; and

(b) post the notice on the department's website.

(11) (a) For 60 days from the date that notice is mailed pursuant to subsection (10), the department shall accept correct and complete objections to the proposed lease from any person whose property, water rights, or interests would be adversely affected by the proposed appropriation. The objection must be made on a form provided by the department.

(b) The department shall determine if an objection is valid. A valid objection contains facts indicating that the rights of other appropriators would be adversely affected by the lease of the appropriation right. If the department determines that an objection is valid, the approval for the use of the appropriation right under the lease is canceled and no water may be used pursuant to the lease.

(c) The owner of an appropriation right whose approval is canceled under subsection (11)(b) may request a hearing on the objection pursuant to 2-4-604 within 15 days of notice of the cancellation. The department shall issue an order reinstating approval for the use of the appropriation right under the lease if the applicant proves by a preponderance of the evidence that the water rights of other appropriators will not be adversely affected by the lease.

(12) Leased water may not be put to use until a final determination is made pursuant to subsection (11). The lessee shall provide the department with a copy of the executed lease agreement before the leased water is put to use.

(13) Violations of this section are subject to the provisions of 85-2-114 and 85-2-122. This subsection does not limit the remedies available to an appropriator to enjoin or seek damages from the owner of an appropriation right who leased the water or from a lessee.

(14) The department shall adopt rules to implement this section. The rules must include definitions of consumptive uses and criteria for determining if an appropriation right has been used in the 5 years prior to the temporary lease application.

(15) The department shall report annually to the water policy interim committee provided for in 5-5-231. The report must include the number of leases, the amount of water leased, and the number of irrigated acres taken out of production.

(16) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation. (Terminates July 1, 2019—sec. 4, Ch. 236, L. 2013.)"

Section 10. Section 85-2-506, MCA, is amended to read:

"85-2-506. Controlled ground water areas — designation or modification. (1) The department may by rule designate or modify permanent or temporary controlled ground water areas as provided in this part. The rule for each controlled ground water area must designate the boundaries of the controlled ground water area.

(2) The rulemaking process for designation or modification of a controlled ground water area may be initiated by:

(a) the department;

(b) submission of a correct and complete petition from a state or local public health agency for identified public health risks; or

(c) submission of a correct and complete petition:

(i) by a municipality, county, conservation district, or local water quality district formed under Title 7, chapter 13, part 45; or

(ii) signed by at least one-third of the water right holders in a proposed controlled ground water area.

(3) (a) A correct and complete petition must:

(i) be in a form prescribed by the department and must contain analysis prepared by a hydrogeologist, a qualified scientist, or a qualified licensed professional engineer concluding that one or more of the criteria provided in subsection (5) are met; and

(ii) describe proposed measures, if any, to mitigate effects of the criteria identified in subsection (5) that are alleged in the petition.

(b) When the department proposes a rule pursuant to this section, the place for the hearing must be within or as close as practical to the proposed or existing controlled ground water area.

(c) (i) The department shall notify the petitioner of any defects in a petition within 180 days. If the department does not notify the petitioner of any defects within 180 days, the petition must be treated as correct and complete.

(ii) A petition that is not made correct and complete within 90 days from the date of notification by the department of any defect is terminated.

(4) (a) Within 60 days after a petition is determined to be correct and complete, the department shall:

(i) deny in writing the petition in whole or in part, stating the reasons for denial;

(ii) inform the petitioner that the department will study the information presented in the petition for a period not to exceed 90 days before denying or proceeding with the petition; or

(iii) initiate rulemaking proceedings in accordance with Title 2, chapter 4, part 3.

(b) Failure of the department to act under subsection (4)(a) does not mandate that the department grant the petition for rulemaking.

(c) In addition to the notice requirements of Title 2, chapter 4, parts 1 through 4, the department shall provide public notice of the rulemaking hearing by:

(i) publishing a notice at least once each week for 3 successive weeks, with the first notice not less than 30 days before the date of the hearing in a newspaper of general circulation in the county or counties in which the proposed controlled ground water area is located;

(ii) serving by mail a copy of the notice, not less than 30 days before the hearing, upon each person or public agency known from an examination of the records of the department to be a water right holder with a diversion within the proposed controlled ground water area, all landowners of record within the proposed controlled ground water area, and each well driller licensed in Montana whose address is within any county in which any part of the proposed controlled ground water area is located; and

(iii) serving by mail a copy of the notice upon any other person or state or federal agency that the department feels may be interested in or affected by the proposed designation or modification of a controlled ground water area.

(d) The notice under subsection (4)(c) must include a summary of the basis for the proposed rule. Publication and mailing of the notice as prescribed in this section, when completed, is considered to be sufficient notice of the hearing to all interested persons.

(5) The department may designate a permanent controlled ground water area by rule if it finds by a preponderance of the evidence that any of the following criteria have been met and cannot be appropriately mitigated:

(a) current or projected reductions of recharge to the aquifer or aquifers in the proposed controlled ground water area will cause ground water levels to decline to the extent that water right holders cannot reasonably exercise their water rights;

(b) current or projected ground water withdrawals from the aquifer or aquifers in the proposed controlled ground water area have reduced or will reduce ground water levels or surface water availability necessary for water right holders to reasonably exercise their water rights;

(c) current or projected ground water withdrawals from the aquifer or aquifers in the proposed controlled ground water area have induced or altered or will induce or alter contaminant migration exceeding relevant water quality standards;

(d) current or projected ground water withdrawals from the aquifer or aquifers in the proposed controlled ground water area have impaired or will

impair ground water quality necessary for water right holders to reasonably exercise their water rights based on relevant water quality standards;

(e) ground water within the proposed controlled ground water area is not suited for beneficial use; or

(f) public health, safety, or welfare is or will become at risk.

(6) (a) If the department finds that sufficient facts are not available to designate a permanent controlled ground water area, it may designate by rule a temporary controlled ground water area to allow studies to obtain the facts needed to determine whether or not it is appropriate to designate a permanent controlled ground water area. The department shall set the length of time that the temporary controlled ground water area will be in effect. Subject to subsection (6)(c), the term of a temporary controlled ground water area may be extended by rule.

(b) A temporary controlled ground water area designation is for the purpose of study and cannot include the control provisions provided in subsection (7), other than measurement, water quality testing, and reporting requirements.

(c) A temporary controlled ground water area designation may not exceed a total of 6 years, including any extensions.

(d) Prior to expiration of a temporary controlled ground water area, the department may amend or repeal the rule establishing the temporary controlled ground water area or may designate a permanent controlled ground water area through the rulemaking process under this section.

(e) Studies for temporary controlled ground water areas may be considered for funding under the renewable resource grant and loan program in Title 85, chapter 1, part 6.

(f) If there is a ground water investigation program within the bureau, the ground water assessment steering committee established by 2-15-1523 shall consider temporary controlled ground water areas for study.

(7) A controlled ground water area may include but is not limited to the following control provisions:

(a) a provision closing the controlled ground water area to further appropriation of ground water;

(b) a provision restricting the development of future ground water appropriations in the controlled ground water area by flow, volume, purpose, aquifer, depth, water temperature, water quality, density, or other criteria that the department determines necessary;

(c) a provision requiring measurement of future ground water or surface water appropriations;

(d) a provision requiring the filing of notice on land records within the boundary of a permanent controlled ground water area to inform prospective holders of an interest in the property of the existence of a permanent controlled ground water area. Notice of the designation must be removed or modified as necessary to accurately reflect modification or repeal of a permanent designation within 60 days.

(e) a provision for well spacing requirements, well construction constraints, and prior department approval before well drilling, unless the well is regulated pursuant to Title 82, chapter 11;

(f) a provision for mitigation of ground water withdrawals;

(g) a provision for water quality testing;

(h) a provision for data reporting to the department; and

(i) other control provisions that the department determines are appropriate and adopts through rulemaking.

(8) Pursuant to [section 2], the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

Section 11. Section 85-5-110, MCA, is amended to read:

"85-5-110. Appointment of water mediators — duties. (1) ~~The~~ *Except as provided in [section 2], the* judge of the district court may appoint a water mediator to mediate a water controversy in a decreed or nondecreed basin under the following circumstances:

(a) upon request of the governor;

(b) upon petition by at least 15% of the owners of water rights in a decreed or nondecreed basin; or

(c) in the discretion of the district court having jurisdiction.

(2) A water mediator appointed under this section may:

(a) discuss proposed solutions to a water controversy with affected water right holders;

(b) review options related to scheduling and coordinating water use with affected water right holders;

(c) discuss water use and water needs with persons and entities affected by the existing water use;

(d) meet with principal parties to mediate differences over the use of water; and

(e) hold public meetings and conferences to discuss and negotiate potential solutions to controversies over use of water.

(3) If the governor requests or a state agency petitions for a water mediator, the governor or agency shall pay all or a majority of the costs of the water mediator as determined equitable by the district court having jurisdiction.

(4) The governor may use funds appropriated under 75-1-1101 to pay the costs of a water mediator.

(5) This section does not allow a water mediator to require any valid water right holder to compromise or reduce any of the holder's existing water rights.

(6) If an appropriator voluntarily ceases to use all or part of an appropriation right or voluntarily ceases to use an appropriation right according to its terms and conditions as a result of the efforts of a mediator appointed under this section, the appropriator may not be considered to have abandoned all or any portion of the appropriation right."

Section 12. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 13. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 85, chapter 20, and the provisions of Title 85, chapter 20, apply to [sections 1 and 2].

Section 14. Effective date. [This act] is effective on passage and approval.

Approved April 24, 2015

CHAPTER NO. 295

[SB 294]

AN ACT REVISING THE AUTHORITY OF A HOSPITAL DISTRICT TO BORROW MONEY; ALLOWING NOTES ISSUED TO PROVIDE FUNDS FOR A HOSPITAL DISTRICT TO MATURE OVER A TERM NOT TO EXCEED 30 YEARS IF APPROVED BY THE DISTRICT ELECTORS; AMENDING SECTION 7-34-2131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-34-2131, MCA, is amended to read:

"7-34-2131. Hospital district bonds and notes authorized. (1) (a) A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

(b) The amount of bonds issued for the purposes referred to in subsection (1)(a) and outstanding at any time may not exceed 1.4% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(c) The bonds must be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of school districts by Title 20, chapter 9, part 4.

(2) (a) A hospital district may borrow money by the issuance of notes to provide funds to finance the costs described in subsection (1) and to finance the working capital requirements of the district. The notes must be authorized and in a form and terms prescribed by a resolution adopted by the board of trustees. The notes must mature over a term not to exceed 15 years *or, if authorized by the electors of the district, a term not to exceed 30 years*.

(b) The principal and interest on the notes must be paid from the taxes levied pursuant to 7-34-2133, exclusive of the taxes levied to pay bonds issued in accordance with subsection (1), and all other revenue of the district. The annual amount of principal and interest payable on notes in any fiscal year must be included in the district's budget for that year.

(c) The notes may be secured by a mortgage of or a security interest in all or part of the district's assets and by a pledge of the taxes and revenue of the district, or either of them.

(d) Notes may not be issued unless the projected annual revenue of the district, including the taxes levied pursuant to 7-34-2133 but exclusive of the taxes levied to pay bonds, is at least equal to the sum of the cost of operating and maintaining the hospital district plus the maximum amount of principal and interest due in any future fiscal year on the notes proposed to be issued and all notes outstanding upon the issuance of the proposed notes.

(3) This section may not be construed to amend or repeal the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to issuance of notes authorized by the electors of the district on or after November 1, 2014.

Approved April 24, 2015

CHAPTER NO. 296

[SB 355]

AN ACT ESTABLISHING REQUIREMENTS FOR THE USE AND REIMBURSEMENT OF FEDERAL PETROLEUM BROWNFIELDS MONEY AT PETROLEUM TANK RELEASE SITES; ESTABLISHING THE MONTANA PETROLEUM BROWNFIELDS REVITALIZATION ACT; ESTABLISHING REQUIREMENTS TO BE USED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN DETERMINING ELIGIBILITY FOR THE USE OF FEDERAL BROWNFIELDS GRANTS AT PETROLEUM TANK RELEASE SITES; PROHIBITING THE DEPARTMENT FROM LIMITING THE USE OF FEDERAL BROWNFIELDS MONEY AT PETROLEUM TANK RELEASE SITES UNDER CERTAIN CONDITIONS; REQUIRING THE DEPARTMENT TO COORDINATE WITH CERTAIN ENTITIES WHEN USING FEDERAL BROWNFIELDS GRANTS OBTAINED BY THE DEPARTMENT AT CERTAIN PETROLEUM TANK RELEASE SITES; DEFINING TERMS; AMENDING SECTIONS 75-11-307 AND 75-11-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 6] may be cited as the "Montana Petroleum Brownfields Revitalization Act".

Section 2. Findings and intent — purposes. The legislature finds that:

(1) real properties exist across the state where the stigma of petroleum contamination hinders the development or best use of the property. These petroleum-contaminated properties may be eligible for petroleum brownfields funding.

(2) the cleanup of petroleum brownfields sites should be encouraged and facilitated to reduce threats to human health and the environment, prepare properties for reuse and redevelopment, and return property to local tax rolls;

(3) the petroleum tank release cleanup fund established in 75-11-313 is not sufficient to immediately address all petroleum tank release sites in Montana in a timely and comprehensive manner; and

(4) the department should encourage the use of federal brownfields money obtained by grant recipients for assessment and remediation at eligible petroleum brownfields sites and to leverage federal funds and limit costs imposed on Montana citizens.

Section 3. Definitions — application. (1) The definitions used in [sections 1 through 6] are for the purpose of determining the eligibility of petroleum release sites to receive and expend federal brownfields funding received by a grant recipient from the United States environmental protection agency under the federal Brownfields Revitalization Act, Title II of Public Law 107-118.

(2) As used in [sections 1 through 6], the following definitions apply:

(a) "Department" means the department of environmental quality provided for in 2-15-3501.

(b) "Grant recipient" means a city, town, county, consolidated city-county, tribal government, economic development organization, nonprofit organization, or state agency that has received federal brownfields money from the environmental protection agency.

(c) "Person" means an individual, firm, trust, estate, partnership, company, association, joint-stock company, syndicate, consortium, commercial entity, corporation, state government agency, or local government.

(d) "Petroleum brownfields sites" means real property where the expansion, redevelopment, or reuse is or may be complicated by the presence or perceived presence of petroleum contamination.

(e) "Petroleum tank release site" means a site where there has been a release from a petroleum storage tank and assessment, remediation, or both are being pursued in accordance with Title 75, chapter 11, part 3.

(f) "Potentially liable person" means a grant recipient who:

(i) dispensed or disposed of, or owned the site when others dispensed or disposed of, petroleum or petroleum product at the site;

(ii) exacerbated existing petroleum contamination at the site; or

(iii) failed to take reasonable steps with regard to petroleum contamination at the site.

(g) "Reasonable steps" means, as appropriate, stopping continuing releases, preventing threatened future releases, or preventing or limiting human, environmental, or natural resource exposure to earlier petroleum or petroleum product releases. The term may include limiting access to the property, monitoring known contaminants, and complying with state, local, or both state and local requirements.

(h) "Relatively low risk" refers to a petroleum tank release site that is not being assessed, investigated, or cleaned up by the department using funds from the federal leaking underground storage tank trust fund and is not subject to a response under the federal Oil Pollution Act.

(i) "Responsible party" means:

(i) a person who is responsible for conducting the assessment, investigation, and cleanup at a petroleum tank release site as determined through:

(A) a judgment rendered in a court of law or an administrative order;

(B) an enforcement action by federal authorities or the department; or

(C) a citizen suit, contribution action, or other third-party claim brought against the current owner of the petroleum tank release site; or

(ii) a current owner of a petroleum tank release site who:

(A) dispensed or disposed of petroleum or petroleum product contamination at the site;

(B) exacerbated existing petroleum contamination at the site;

(C) owned the site when any dispensing or disposal of petroleum by others took place; or

(D) failed to take reasonable steps with regard to petroleum contamination at the site.

(j) "Viable responsible party" means a responsible party who is determined by the department in accordance with [section 4] to have the financial capability to conduct the assessment, investigation, or cleanup activities at a petroleum tank release site.

Section 4. Viability. (1) For the purpose of determining the viability of a responsible party, the department shall presume that:

(a) ongoing businesses or companies and government entities are viable unless there is information suggesting that the presumption is not appropriate and the department determines the information is sufficient to rebut the presumption in a particular case; and

(b) individuals and defunct or insolvent companies are not viable unless there is information suggesting that the presumption is not appropriate and the department determines the information is sufficient to rebut the presumption in a particular case.

(2) The department may not determine that a responsible party is viable based solely on the fact that the owner or operator of the petroleum tank release site is eligible to be reimbursed by the petroleum tank release compensation board established in 2-15-2108 from the petroleum tank release cleanup fund established in 75-11-313.

(3) It is a grant recipient's responsibility to provide the department with sufficient financial information about a responsible party identified in a petroleum brownfields site eligibility application to determine whether the responsible party is a viable responsible party.

Section 5. Brownfields site eligibility at petroleum tank release sites — determinations and limitations. (1) Before a grant recipient may expend federal brownfields funds at a petroleum tank release site, either the United States environmental protection agency or the department shall make a written determination that:

(a) the petroleum tank release site is of relatively low risk compared to other petroleum-contaminated sites;

(b) there is no viable responsible party for the petroleum tank release site;

(c) the petroleum tank release site will not be assessed, investigated, or cleaned up by a potentially liable person; and

(d) the petroleum tank release site is not subject to an order under section 9003(h) of the federal Solid Waste Disposal Act, 42 U.S.C. 6991b(h), or Title 75, chapter 11.

(2) After the department or the United States environmental protection agency determines that a petroleum tank release site is eligible for federal brownfields funding, the department shall encourage and may not limit the use of a grant recipient's federal petroleum brownfields funding at the site even if the site owner or operator, as defined in 75-11-302, is eligible for funding from the petroleum tank release cleanup fund established in 75-11-313.

(3) The department may not limit the use of money from the petroleum tank release cleanup fund established in 75-11-313 when used as a commitment to a federal brownfields loan made by a grant recipient for remediation at a petroleum tank release site.

(4) (a) Except as provided in subsection (4)(b), a determination made by the department or the United States environmental protection agency that a petroleum tank release site is eligible for federal brownfields funding does not limit or alter the owner's or operator's responsibility to assess or remediate the petroleum tank release site in accordance with Title 75, chapter 11.

(b) If the department determines that a grant recipient has proposed to conduct a timely and comprehensive remediation using federal brownfields funding at a petroleum tank release site that has been determined by the department or the United States environmental protection agency to be eligible

for petroleum brownfields funding and the proposed remediation plan is expected to meet or exceed remediation standards required by the department and financial commitments required by the petroleum tank release compensation board pursuant to Title 75, chapter 11, the department shall approve the comprehensive remediation plan and allow for the use of federal brownfields funding at the petroleum tank release site.

Section 6. Use of petroleum brownfields funding acquired by state — limitations. Prior to expending federal funds awarded to the state for the purpose of assessing or cleaning up petroleum tank release sites that are eligible for petroleum brownfields funding from the United States environmental protection agency under the federal Brownfields Revitalization and Environmental Restoration Act of 2001, Title II of Public Law 107-118, the department shall make a reasonable effort to coordinate with a grant recipient who may intend to expend federal brownfields funding to assess or remediate eligible petroleum brownfields sites in the grant recipient's brownfields target area and to ensure that the grant recipient is not intending to expend petroleum brownfields funding at the same eligible brownfields sites.

Section 7. Section 75-11-307, MCA, is amended to read:

"75-11-307. Reimbursement for expenses caused by release. (1) Subject to the availability of money from the fund under subsection (6), an owner or operator who is eligible under 75-11-308 and who complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

(a) corrective action costs as required by a department-approved corrective action plan, except that if the corrective action plan:

(i) addresses releases of substances other than petroleum products from an eligible petroleum storage tank, the board may reimburse only the costs that would have reasonably been incurred if the only release at the site was the release of the petroleum or petroleum products from the eligible petroleum storage tank; or

(ii) includes the establishment of a petroleum mixing zone, as defined in 75-11-503, the board may reimburse the cost of an easement established pursuant to 75-11-508(3)(a); and

(b) compensation paid to third parties for bodily injury or property damage. The board may not reimburse for property damage until the corrective action is completed.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, the operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating oil for consumptive use on the premises where it is stored or for a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4);

(h) costs for which an owner or operator has received reimbursement or payment from an insurer or other third party*, including a grantor*; ~~and~~

(i) expenses for work completed by or on behalf of the owner or operator more than 5 years prior to the owner's or operator's request for reimbursement. This limitation does not apply to claims for compensation paid to third parties for bodily injury or property damage. The running of the 5-year limitation period is suspended by an appeal of the board's denial of eligibility for reimbursement. If a written request for hearing is filed under 75-11-309, the suspension of the 5-year limitation period is effective from the date of the board's initial eligibility denial to the date on which the initial eligibility denial is overturned or reversed by the board, a district court, or the state supreme court, whichever occurs latest. The board may grant reasonable extensions of this limitation period if it is shown that the need for the extension is not due to the negligence of the owner or operator or agent of the owner or operator.

(j) costs that the board has determined are not actual, reasonable, and necessary costs of responding to the release and implementing the corrective action plan, as provided for in 75-11-309, including costs included in a department-approved corrective action plan for the purpose of remediating the release in excess of department standards.

(3) An owner or operator may designate a person*, including a grantor,* as an agent to receive the reimbursement *for eligible costs incurred by the person* if the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection (6):

(a) for releases eligible for reimbursement from the fund that are discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or operator for:

(i) 100% of the eligible costs, up to a maximum total reimbursement of $500,000, for properly designed and installed double-walled tank system releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first $10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $495,000 for all other releases; and

(b) for all other releases eligible for reimbursement from the fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:

(i) 100% of the eligible costs, up to a maximum total reimbursement of $1 million, for properly designed and installed double-walled tank system releases that were discovered and reported on or after October 1, 1993, and before October 1, 2009; or

(ii) 50% of the first $35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $982,500 for all other releases.

(5) If an insurer *or grantor* pays or reimburses an owner or operator for costs that qualify as eligible costs under subsection (1), the costs paid or reimbursed by the insurer *or grantor*:

(a) are considered to have been paid by the owner or operator toward satisfaction of the 50% share requirements of subsection (4)(a)(ii) or (4)(b)(ii) if the owner or operator receives the payment or reimbursement before applying for reimbursement from the board;

(b) are not reimbursable from the fund *unless the grantor is designated by the owner or operator as an agent to receive the reimbursement for eligible costs incurred by the grantor*; and

(c) except for the amount considered to have been paid by the owner or operator pursuant to subsection (5)(a), are considered to have been reimbursed from the fund for purposes of determining when the board has paid the maximum amount payable from the fund under subsection (4)(a)(ii) or (4)(b)(ii).

(6) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

Section 8. Section 75-11-309, MCA, is amended to read:

"75-11-309. Procedures for reimbursement of eligible costs — corrective action plans. (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from the owner's or operator's petroleum storage tank, the owner or operator shall immediately notify the department of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect the public health and safety and the environment.

(b) Except for a tank for which a permit is sought under 75-11-308(1)(b)(iii) and that is closed within 120 days of discovery of the release, following discovery of the release, the petroleum storage tank must remain in compliance with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases.

(c) The owner or operator shall conduct a thorough investigation of the release, report the findings to the department, and, as determined necessary by the department, prepare and submit for approval by the department a corrective action plan that conforms with state, tribal (when applicable), and federal corrective action requirements.

(d) (i) The department shall review the corrective action plan and forward a copy to a local government office and, when applicable, a tribal government office with jurisdiction over a corrective action for the release. The local or tribal government office shall inform the department if it wants any modification of the proposed plan.

(ii) Based on its own review and comments received from a local government, tribal government, or other source, the department*, subject to [section 5(4)(b)],*

may approve the proposed corrective action plan, make or request the owner or operator to modify the proposed plan, or prepare its own plan for compliance by the owner or operator. A plan finally approved by the department through any process provided in this subsection (1)(d) is the approved corrective action plan.

(iii) After the department approves a corrective action plan, a local government or tribal government may not impose different corrective action requirements on the owner or operator.

(e) A corrective action plan prepared by the owner, operator, or department for any petroleum storage tank release may include the establishment of a petroleum mixing zone as defined in 75-11-503.

(f) The department shall notify the owner or operator of its approval of a corrective action plan and shall promptly submit a copy of the approved corrective action plan to the board. Upon review, the board may request that the corrective action plan be amended pursuant to 75-11-508 to include a petroleum mixing zone. If the department finds that the conditions for establishment of a petroleum mixing zone in 75-11-508 are satisfied, the corrective action plan must be amended to include a petroleum mixing zone.

(g) The owner or operator shall implement the corrective action plan or plans approved by the department until the release is resolved. The department may oversee the implementation of the plan, require reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable law and rules.

(h) (i) The owner or operator shall document in the manner required by the board all expenses incurred in preparing and implementing the corrective action plan. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(ii) The board shall review each claim and determine if the claims are actual, reasonable, and necessary costs of responding to the release and implementing the corrective action plan.

(iii) If the board requires additional information to determine if a claimed cost is actual, reasonable, and necessary, the board may request comment from the department and the owner or operator.

(iv) If the department determines that an owner or operator is failing to properly implement a corrective action plan, it shall notify the board.

(i) The owner or operator shall document, in the manner required by the board, any payments to a third party for bodily injury or property damage caused by a release. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(j) In addition to the documentation in subsections (1)(h) and (1)(i), when the release is claimed to have originated from a properly designed and installed double-walled tank system, the owner or operator shall document, in the manner required by the board, the following:

(i) the date that the release was discovered; and

(ii) that the originating tank was part of a properly designed and installed double-walled tank system.

(2) If an owner or operator is issued an administrative order for failure to comply with requirements imposed by or pursuant to Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, all reimbursement of claims submitted after the date of the order must be suspended. Upon a written

determination by the department that the owner or operator has returned to compliance with the requirements of Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(3) The board shall review each claim received under subsections (1)(h) and (1)(i), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(a) the expenses for which reimbursement is claimed:

(i) are eligible costs; and

(ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a corrective action plan approved by the department or for payments to a third party for bodily injury or property damage; and

(b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section. Upon a determination by the board that the owner or operator has not complied with this section or rules adopted pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a determination by the board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(4) (a) If an owner or operator disagrees with a board determination under subsection (3), the owner or operator may submit a written request for a hearing before the board.

(b) A written request for a hearing must be received by the board within 120 days after notice of the board's determination is served on the owner or operator by certified mail. The notice of determination must advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board. Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline for requesting a hearing. Service by certified mail is complete on the date shown on the certified mail receipt.

(c) If a written request is received within 120 days, the hearing must be held at a meeting of the board or as otherwise permitted under the Montana Administrative Procedure Act no later than 120 days following receipt of the request or at a time mutually agreed to by the board and the owner or operator.

(d) If a written request is not received within 120 days, the determination of the board is final.

(5) The board shall obligate money for reimbursement of eligible costs of owners and operators in the order that the costs are finally approved by the board.

(6) (a) The board may, at the request of an owner or operator, guarantee in writing the reimbursement of eligible costs that have been approved by the

board but for which money is not currently available from the fund for reimbursement.

(b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of eligible costs not yet approved by the board, including estimated costs not yet incurred. A guarantee for payment under this subsection (6)(b) does not affect the order in which money in the fund is obligated under subsection (5).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee."

Section 9. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 75, chapter 11, and the provisions of Title 75, chapter 11, apply to [sections 1 through 6].

Section 10. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Effective date. [This act] is effective on passage and approval.

Approved April 24, 2015

CHAPTER NO. 297

[SB 384]

AN ACT REQUIRING THAT CERTAIN NOTICES OF NO CONTACT BE ISSUED ONLY AFTER AUTHORIZATION BY A COURT OF COMPETENT JURISDICTION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Notice of no contact. (1) Except as provided in 45-5-209, a notice of no contact to a landlord for the benefit of a tenant or to a tenant for the benefit of a landlord may only be authorized pursuant to an order of no contact issued by a court of competent jurisdiction if the person receiving the notice of no contact is acting in accordance with the provisions of Title 70, chapter 24, 25, or 33.

(2) Except as provided by 45-5-209 or this section, or if issued pursuant to an order of protection issued by a court of competent jurisdiction, a notice of no contact to a landlord for the benefit of a tenant or to a tenant for the benefit of a landlord is invalid.

Section 2. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [section 1].

(2) [Section 1] is intended to be codified as an integral part of Title 70, chapter 33, and the provisions of Title 70, chapter 33, apply to [section 1].

Approved April 24, 2015

CHAPTER NO. 298

[HB 4]

AN ACT APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2015; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE INTO STATE AND FEDERAL FISCAL YEARS 2016 AND 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Time limits. The appropriations contained in [section 2] are intended to provide necessary expenditures for the years for which the appropriations are made. The unspent balance of an appropriation reverts to the fund from which it was appropriated upon conclusion of the final fiscal year for which its expenditures are authorized by [sections 1 and 2].

Section 2. Appropriations. The following money is appropriated, subject to the terms and conditions of [sections 1 and 2]:

Agency and Program

Judiciary

Supreme Court Operations

State court improvement data program	FY2015	$5,582	Federal
State court improvement training program	FY2015	$5,582	Federal

All remaining fiscal year 2015 federal budget amendment authority for the state court improvement data program and the state court improvement training program is authorized to continue into federal fiscal year 2016.

District Court Operations

Juvenile Probation Workload Study	FY2015	$50,000	Federal

All remaining fiscal year 2015 federal budget amendment authority for the Montana statewide drug court application and the juvenile probation workload study is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the Yellowstone County family drug treatment court is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the veteran treatment court is authorized to continue into federal fiscal year 2017.

Governor's Office

Executive Office Program

All remaining fiscal year 2015 federal budget amendment authority for the small business credit initiative is authorized to continue into state fiscal year 2017.

Secretary of State

Business and Government Services

Help America vote grant part II	FY 2015	$100,000	Federal

All remaining fiscal year 2015 federal budget amendment authority for the help America vote grant part II is authorized to continue into federal fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for improving the voting experience of Uniformed and Overseas Citizens Absentee Voting Act voters is authorized to continue into state fiscal year 2017.

All of the remaining fiscal year 2015 federal budget amendment authority for the help America vote grant and the help America vote grant title III is authorized to continue into federal fiscal year 2017.

Office of Public Instruction

State Level Activities

All remaining fiscal year 2015 federal budget amendment authority to the preschool development grants is authorized to continue into state fiscal year 2016.

Local Education Activities

All remaining fiscal year 2015 federal budget amendment authority to the preschool development grants is authorized to continue into state fiscal year 2016.

Crime Control Division

Justice System Support Service

All remaining fiscal year 2015 federal budget amendment authority for the Montana crime victims' legal assistance network and for linking systems of care for children and youth state demonstration project is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for building state technology capacity is authorized to continue into federal fiscal year 2017.

Department of Justice

Legal Services Division

All of the remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2013 victim compensation formula grant is authorized to continue into federal fiscal year 2016.

All of the remaining fiscal year 2015 budget amendment authority for the consumer protection disbursement, prescription drug abuse prevention proposal, the prescription drug prevention settlement, and the intervention networks training enforcement response and collaborative efforts development effectiveness project is authorized to continue into federal fiscal year 2017.

Office of Consumer Protection

All of the remaining fiscal year 2015 budget amendment authority for the mortgage settlement is authorized to continue into federal fiscal year 2017.

Montana Highway Patrol

Fiscal Year 2015 Montana Criminal Interdiction Program

FY2015 $8,463 Federal

All of the remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2014 Montana criminal interdiction program is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2015 Montana criminal interdiction program is authorized to continue into state fiscal year 2017.

Division of Criminal Investigation

Alcohol, Tobacco, Firearms and Explosives State and Local Overtime			
	FY2015	$16,000	Federal
State and Local Overtime Reimbursement	FY2015	$34,749	Federal
Immigration Customs Enforcement Overtime	FY2015	$1,500	Federal
Tactical Diversion Task Force	FY2015	$17,375	Federal
Northwest Diversion Task Force	FY2015	$16,650	Federal

All remaining fiscal year 2015 federal budget amendment authority for the northwest diversion task force is authorized to continue into state fiscal year 2016.

Forensic Science Division

All of the remaining fiscal year 2015 federal budget amendment authority for the DNA capacity enhancement and backlog reduction program is authorized to continue into federal fiscal year 2016.

Montana Arts Council

Promotion of the Arts

National Endowment for the Arts	FY2015	$53,356	Federal

All remaining fiscal year 2015 federal budget amendment authority for the national endowment for the arts is authorized to continue into state fiscal year 2016.

Montana Historical Society

Admissions Fee Revenue	FY2015	$14,500	Proprietary

Publications Program

All of the remaining fiscal year 2015 federal budget amendment authority for the humanities Montana project is authorized to continue into state fiscal year 2016.

Education

All the remaining fiscal year 2015 federal budget amendment authority for the project titled "The Richest Hills: Mining in the Far West 1862-1920" is authorized to continue into state fiscal year 2016.

Historic Preservation Program

All remaining fiscal year 2016 federal budget amendment authority for identifying Montana's African-American heritage places is authorized to continue into federal fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for data sharing with the Bureau of Land Management is authorized to continue into federal fiscal year 2017.

Department of Fish, Wildlife, and Parks

Fisheries Division

All of the remaining fiscal year 2015 federal budget amendment authority to detect and prevent the spread of aquatic invasive species in the Swan and Clearwater River valleys, for the arctic grayling project in the Big Hole River, for aquatic invasive species prevention in the Clearwater and Blackfoot watersheds, for the westslope cutthroat trout and bull trout sampling in the Beaverhead-Deerlodge National Forest, to restore genetically pure westslope cutthroat trout into Cherry Creek, the upper Missouri River pallid sturgeon tagging and telemetry study, and to restore westslope cutthroat trout

in Pintler Creek and Oreamnos Lake is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the Moose and French Creek restoration project is authorized to continue into federal fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the westslope cutthroat trout conservation strategy for the Lewis and Clark National Forest, the arctic grayling recovery project, the Swan Valley bull trout working group, the implementation of the Montana state aquatic invasive species plan, and the native fish genetics grant for the Blackfoot Watershed is authorized to continue into state fiscal year 2017.

All of the remaining fiscal year 2015 federal budget amendment authority for the arctic grayling project in the Upper Red Rock Lake, the Painted Rocks reservoir operation and maintenance, the Blackfoot River recreation management partnership, the westslope cutthroat trout genetics grant, the westslope cutthroat trout restoration activities, the native fish conservation broodstock development, and the fish study grant is authorized to continue into federal fiscal year 2017.

Enforcement Division

Turn In Poachers Program Participation FY2015 $9,000 Federal

All of the remaining fiscal year 2015 federal budget amendment authority for the turn in poachers program participation is authorized to continue into federal fiscal year 2017.

Wildlife Division

All of the remaining fiscal year 2015 federal budget amendment authority for grizzly bear management assistance in Montana, the elk survival and recruitment study in the Bitterroot Valley, bear management in the Cabinet-Yaak region, the Kootenai River resident fish assessment project, the North American bat monitoring project, and the sage grouse initiative is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for a bear management specialist and public access for wildlife-dependent recreation is authorized to continue into state fiscal year 2017.

All of the remaining fiscal year 2015 federal budget amendment authority for grizzly bear conservation, the Montana bighorn sheep study, implementing PPJV conservation activities in Montana, the fiscal year 2013 legacy administration grant, the fiscal year 2014 legacy administration grant, the elk study in the Elkhorn Mountains, evaluation of grazing treatments on Lake Mason for greater sage grouse population and habitat management, the Montana wolf monitoring study, and the grizzly bear trend survey is authorized to continue into federal fiscal year 2017.

Parks Division

All of the remaining fiscal year 2015 federal budget amendment authority for management of the Smith River corridor is authorized to continue into state fiscal year 2017.

Capital Outlay

All of the remaining fiscal year 2015 federal budget amendment authority for restoration of genetically pure westslope cutthroat trout into Cherry Creek, for conservation of arctic grayling in streams or lakes draining

the Beaverhead-Deerlodge National Forest, the Montana wildlife lands program, and for the south fork Sixteenmile Creek barrier construction project is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the Big Lake wetland restoration and the operation and maintenance of the Canyon Ferry wildlife management area is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the fish barrier removal in the Missouri River system, the restoration work on Big Spring Creek, and the Clear Creek conservation legacy project is authorized to continue into federal fiscal year 2017.

Administration

All remaining fiscal year 2015 federal budget amendment authority for the Great Plains wind energy project is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the wildlife survey and inventory program is authorized to continue into state fiscal year 2017.

Department Management

Poplar Pipeline Spill on the Yellowstone River FY2015 $50,000 Federal

All of the remaining fiscal year 2015 federal budget amendment authority for the state of Montana data integration and collaborative services for crucial areas assessments is authorized to continue into state fiscal year 2016.

Department of Environmental Quality

Central Management Program

All of the remaining fiscal year 2015 federal budget amendment authority for the data publishing and exchange project is authorized to continue into federal fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the nextgen project is authorized to continue into federal fiscal year 2017.

Remediation Division

All of the remaining fiscal year 2015 federal budget amendment authority for the Carpenter Snow Creek mining district supplemental remedial investigation cooperative agreement is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2014 abandoned mine land reclamation grant is authorized to continue into federal fiscal year 2017.

Permitting and Compliance Division

All of the remaining fiscal year 2015 federal budget amendment authority for the underground storage tank program is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for air quality monitoring and the Zortman/Landusky water treatment and reclamation projects is authorized to continue into federal fiscal year 2016.

Department of Transportation

Highway and Engineering

March 2014 Severe Flooding Emergency Relief Funds

FY2015 $1,502,667 Federal

All of the remaining fiscal year 2015 federal budget amendment authority to repair the Judith River trestle is authorized to continue into state fiscal year 2017.

All of the remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2014 federal-aid highway program and the March 2014 severe flooding emergency relief funds is authorized to continue into federal fiscal year 2017.

Aeronautics Program

All of the remaining fiscal year 2015 federal budget amendment authority for the Yellowstone airport rescue and fire fighting building is authorized to continue into state fiscal year 2016.

All of the remaining fiscal year 2015 federal budget amendment authority for the Yellowstone airport runway rehabilitation is authorized to continue into federal fiscal year 2016.

Rail, Transit, and Planning

All of the remaining fiscal year 2015 federal budget amendment authority for the great northern corridor coalition is authorized to continue into federal fiscal year 2017.

Department of Livestock

Centralized Services Program

Wolf-Livestock Demonstration Project Grant Program

FY2015 $150,000 Federal

All of the remaining fiscal year 2015 federal budget amendment authority for the wolf-livestock demonstration project grant program is authorized to continue into state fiscal year 2016.

Diagnostic Laboratory Division

Maintenance of Membership Laboratory Requirements

FY2015 $55,000 Federal

All remaining fiscal year 2015 federal budget amendment authority for the maintenance of membership laboratory requirements is authorized to continue into state fiscal year 2016.

Animal Health Division

Animal Disease Traceability FY2015 $149,000 Federal

All of the remaining fiscal year 2015 federal budget amendment authority for animal health traceability is authorized to continue into state fiscal year 2016.

Department of Natural Resources and Conservation

Conservation and Resource Development Division

All remaining fiscal year 2015 federal budget amendment authority for developing an adaptive management plan to address climate change impacts is authorized to continue into state fiscal year 2017.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2012 safe drinking water act, the fiscal year 2013 clean water act, the fiscal year 2013 safe drinking water act, the prevention of aquatic invasive

species in the Flathead Basin, the fiscal year 2014 clean water act, and the fiscal year 2014 safe drinking water act is authorized to continue into federal fiscal year 2017.

Water Resource Division

Drought Demonstration Project	FY2015	$20,000	Federal

All remaining fiscal year 2015 federal budget amendment authority for the digital floodplain map for Granite County, the floodplain topographical map along stream corridors, the digital floodplain map for Flathead County, the digital floodplain map for Missoula County, the digital floodplain map for Bozeman Creek, the digital floodplain map for West Gallatin River, and the digital floodplain map for Gallatin County is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the drought demonstration project is authorized to continue into state fiscal year 2017.

Forestry and Trust Lands Division

Bridger Pipeline Spill Pollution Removal	FY2015	$15,000	Federal

All remaining fiscal year 2015 federal budget amendment authority for the prescribed burning activities in the Lolo National Forest, technical assistance in forest-based conservation and enhancement, the prescribed burning activities in the Gallatin National Forest, and the prescribed burning activities with the Bureau of Land Management Dillon field office is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2011 consolidated grant, the fiscal year 2011 hazardous fuels reduction on adjacent nonfederal lands, the fiscal year 2011 forest health protection from the western bark beetle, the fiscal year 2011 biomass utilization, providing employees to serve as subject matter experts, the conservation reserve program sign-ups, and the fiscal year 2012 cohesive strategy consolidated payment grant is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the Helena interagency dispatch center, prescribed burning activities in the Custer National Forest, the fiscal year 2013 hazardous fuels reduction on adjacent non-federal lands, the fiscal year 2013 forest health protection from the western bark beetle, the fiscal year 2012 consolidated payments grant, and the Montana forest restoration working group is authorized to continue into state fiscal year 2017.

All remaining fiscal year 2015 federal budget amendment authority for employees to attend the annual incident command/area command workshop, the fiscal year 2013 consolidated payments grant, the fiscal year 2013 hazardous fuels reduction grant, the fiscal year 2013 western bark beetle grant, the prescribed burning activities in the Lolo National Forest, the fiscal year 2013 community forest and open space administration, the prescribed burning activities in the Kootenai National Forest, the conservation reserve program sign-ups, the forest management and stewardship in the Red Mountain flume Chessman reservoir, the fiscal year 2015 consolidated payments grant, the hazardous fuel reduction and watershed restoration in the Red Mountain flume Chessman reservoir, the hazardous fuel reduction grant, and the statewide wood energy teams is authorized to continue into federal fiscal year 2017.

Department of Agriculture

Agricultural Development Division

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2014 specialty crop block grant program is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2015 specialty crop block grant program is authorized to continue into federal fiscal year 2017.

Department of Corrections

Administration and Financial Services

All remaining fiscal year 2015 federal budget amendment authority for the prison rape elimination act is authorized to continue into federal fiscal year 2016.

Adult Community Corrections

All remaining fiscal year 2015 federal budget amendment authority for the bulletproof vest partnership is authorized to continue into federal fiscal year 2016.

Youth Services

All remaining fiscal year 2015 federal budget amendment authority for the small rural school achievement program is authorized to continue into federal fiscal year 2016.

Department of Commerce

Housing Division

All remaining fiscal year 2015 federal budget amendment authority for the section 811 project rental assistance demonstration program is authorized to continue into federal fiscal year 2017.

Department of Labor and Industry

Reemployment and eligibility assessment	FY2015	$105,662	Federal
Women's Bureau Paid Leave Analysis	FY2015	$124,651	Federal

Workforce Services Division

All remaining fiscal year 2015 federal budget amendment authority for improving the labor exchange system is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the job-driven grant is authorized to continue into federal fiscal year 2016.

Unemployment Insurance Division

Reemployment and eligibility assessment	FY2015	$5,625	Federal
Fiscal Year 2015 Unemployment Insurance Administration Funding	FY2015	$721,128	Federal

All remaining fiscal year 2015 federal budget amendment authority for the unemployment insurance program funding and the fiscal year 2013 unemployment insurance administration funding is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2014 unemployment insurance administration funding is authorized to continue into state fiscal year 2017.

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2015 unemployment insurance administration funding is authorized to continue into federal fiscal year 2017.

Technology Services Division

All remaining fiscal year 2015 federal budget amendment authority for the job-driven grant is authorized to continue into federal fiscal year 2016.

Department of Military Affairs

Challenge Program

Youth Challenge Program	FY2015	$254,870	Federal

Starbase

Fiscal Year 2015 Starbase	FY2015	$46,236	Federal

Military Capital Construction

Fiscal Year 2015 Montana National Guard Facilities Programs	FY2015	$1,722,000	Federal

All of the remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2015 Montana national guard facilities program is authorized to continue into federal fiscal year 2017.

Army National Guard Program

Fiscal Year 2014 Montana National Guard Facilities Programs	FY2015	$1,266,945	Federal
Fiscal Year 2015 Montana National Guard Facilities Program	FY2015	$2,775,359	Federal

All remaining fiscal year 2015 federal budget amendment authority for the fiscal year 2013 Montana army national guard facilities programs, the fiscal year 2014 Montana national guard facilities programs, and the fiscal year 2015 Montana national guard facilities programs is authorized to continue into federal fiscal year 2017.

Disaster and Emergency Services

All of the remaining fiscal year 2015 federal budget amendment authority for the Helena open lands fuel reduction program is authorized to continue into state fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the hazard mitigation grant program is authorized to continue into the state fiscal year 2017.

Department of Public Health and Human Services

Disability Employment and Transitions

All remaining fiscal year 2015 federal budget amendment authority for the achieving success by promoting readiness for education and employment grant is authorized to continue into federal fiscal year 2017.

Human and Community Services

All remaining fiscal year 2015 federal budget amendment authority for the food stamp program high performance bonus is authorized to continue into federal fiscal year 2017.

Child and Family Services

Promoting Safe and Stable Families	FY2015	$45,630	Federal

All remaining fiscal year 2015 federal budget amendment authority for promoting safe and stable families is authorized to continue into federal fiscal year 2016.

Public Health and Safety Division

Public Health Emergency Preparedness for Ebola Preparedness and Response Activities FY2015 $1,248,811 Federal

Domestic Ebola Supplement to Epidemiology and Laboratory Capacity for Infectious Disease FY2015 $1,020,180 Federal

All remaining fiscal year 2015 federal budget amendment authority for the affordable care act maternal, infant, and early childhood home visiting program is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the public health emergency preparedness for Ebola, preparedness and response activities, is authorized to continue into federal fiscal year 2016.

All remaining fiscal year 2015 federal budget amendment authority for the domestic Ebola supplement to epidemiology and laboratory capacity for infectious disease is authorized to continue into federal fiscal year 2017.

Developmental Services Division

Social Services Block Grant FY2015 $1,254,445 Federal

All remaining fiscal year 2015 federal budget amendment authority for the social services block grant is authorized to continue into federal fiscal year 2016.

Medicaid and Health Services

All remaining fiscal year 2015 federal budget amendment authority for state innovation models is authorized to continue into state fiscal year 2016.

Senior and Long-Term Care

All remaining fiscal year 2015 federal budget amendment authority for the Montana community choice partnership grant is authorized to continue into state fiscal year 2016.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 299

[HB 7]

AN ACT IMPLEMENTING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for reclamation and development grants. (1) There is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 up to:

(a) $800,000 for planning reclamation and development projects to be awarded by the department over the course of the biennium;

(b) $500,000 to implement measures to control invasive aquatic species in state waters; and

(c) $214,000 for the Montana salinity control association.

(2) The amount of $4,370,620 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account for grants to political subdivisions and local governments during the biennium ending June 30, 2017. The funds in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts set out in subsection (4) subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the reclamation and development grant program January 2015 report to the 64th legislature.

(3) Funds must be awarded up to the amounts approved in this section in the order of priority listed in subsection (4) until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding.

(4) The following are the prioritized grant projects:

Applicant/Project	Amount
Montana Board of Oil & Gas Conservation (2015 Southern District)	$300,000
Montana Board of Oil & Gas Conservation (2015 Northeast District)	$300,000
Montana Department of Environmental Quality (Belt Water Treatment Project)	$500,000
Montana Department of Environmental Quality (Black Pine Mine - South Fork Lower Willow Creek Fluvially Deposited Mill Tailings)	$500,000
Missoula County (Martina Creek & Ninemile Creek Reclamation)	$484,000
Deer Lodge Conservation District (French Gulch Placer Mining Restoration)	$500,000
Montana Department of Environmental Quality (Landusky Bioreactor Rehabilitation)	$500,000
Montana Department of Environmental Quality (Basin Creek Mine - Site Stability Project)	$500,000
Montana Department of Environmental Quality (Sand Coulee Acid Mine Drainage Source Control)	$332,443
Deer Lodge Conservation District (Moose-French Creek Placer Mining Restoration)	$85,000
Montana Department of Environmental Quality (Mitigation of Threat to Harlowton Public Drinking Water)	$82,440
Madison County (North Willow Creek Reclamation)	$499,828
Cascade County (Identifying the Fate of Acid Mine Drainage and Potential Impacts to Madison Aquifer)	$327,322
Montana Bureau of Mines & Geology (Enhance Monitoring Fox Hills - Hell Creek Aquifer)	$499,109

Montana Bureau of Mines & Geology

(Enhance Montana's Manufacturing Growth Through Production of Commodities from Remediation) $498,171

Roosevelt County

(Kenco Refinery Highest Priority Cleanup) $150,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Condition of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 64th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2017, or, in the case of planning grants issued under [section 1], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Other appropriations. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior biennia are reauthorized for completion of contract work.

Section 5. Approval of grants — completion of biennial appropriation. The legislature, pursuant to 90-2-1111, approves the reclamation and development grants listed in [section 1]. The authorization of these grants completes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Coordination instruction. If House Bill No. 226 is passed and approved with a reduction of funds for the natural resources projects state special revenue account created in 15-38-302, then the appropriation for reclamation and development grants of $4,370,620 provided in [section 1(2) of this act] is reduced to $3,770,620 and the projects authorized in [section 1(4) of this act] titled Montana Board of Oil & Gas Conservation (2015 Southern District) at an amount of $300,000 and Montana Board of Oil & Gas

Conservation (2015 Northeast District) at an amount of $300,000 are eliminated.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective July 1, 2015.

Approved April 27, 2015

CHAPTER NO. 300

[HB 11]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PLANNING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations from treasure state endowment state special revenue account. (1) There is appropriated to the department of commerce $13,941,000 for the biennium beginning July 1, 2015, from the treasure state endowment state special revenue account to finance grants authorized by subsection (2).

(2) The following applicants and projects are authorized for grants and listed in the order of their priority:

Other Infrastructure Applicant (project type)	Grant Amount
1. Fallon County Water and Sewer District (wastewater)	$680,000
2. Polson, City of (wastewater)	$750,000
3. Harlowton, City of (water)	$750,000
4. Havre, City of (stormwater)	$500,000
5. Bainville, Town of (water)	$625,000
6. Crow Tribe of Indians (wastewater)	$750,000
7. East Clark Street Water and Sewer District (wastewater)	$536,850
8. Whitefish, Town of (wastewater)	$500,000
9. Hysham, Town of (water)	$625,000
10. Big Sandy, Town of (water)	$750,000
11. Roundup, City of (water)	$500,000
12. Laurel, City of (water)	$500,000

13. Terry, Town of (wastewater)	$750,000
14. Fromberg, Town of (wastewater)	$750,000
15. Upper/Lower River Road Water and Sewer District (water & wastewater)	$340,000
16. Westby, Town of (wastewater)	$625,000
17. Hot Springs, Town of (wastewater)	$103,000
18. Glasgow, City of (water)	$500,000
19. White Sulphur Springs, City of (wastewater)	$750,000
20. Lewistown, City of (wastewater)	$500,000
21. Greater Woods Bay Sewer District (wastewater)	$750,000
22. Ten Mile Creek Estates/Pleasant Valley Sewer District (wastewater)	$500,000
23. Thompson Falls, City of (water)	$499,000
24. Butte-Silver Bow City/County (wastewater)	$406,526
25. Flaxville, Town of (wastewater)	$625,000
26. Conrad, City of (water)	$500,000
27. Dillon, City of (water)	$625,000

(3) Funding for the projects numbered 1 through 24 in subsection (2) will be provided only as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment special revenue account during the biennium ending June 30, 2017. Funding for the projects will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)], the obligations to any remaining projects will cease. Projects numbered 25 though 27 listed in subsection (2) that have satisfied the conditions described in [section 3(1)] may receive grant funds only if one or more of the projects numbered 1 through 24 terminates its right to the awarded funds in writing prior to the end of the biennium ending June 30, 2017.

(4) There is appropriated to the department of commerce $3,988,000 for the biennium beginning July 1, 2015, from the treasure state endowment state special revenue account to finance grants authorized by subsection (5).

(5) The following applicants and projects are authorized for grants and listed in the order of their priority:

Bridge Applicant	Grant Amount
1. Hill County	$291,997
2. Custer County	$467,397
3. Sweet Grass County	$303,898
4. Yellowstone County	$648,476
5. Valley County	$494,108
6. Madison County	$750,000
7. Carbon County	$500,000
8. Fergus County	$337,594
9. Chouteau County	$207,184

(6) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsections (2) and (5) for purposes of encumbering the treasure state endowment state special revenue account funds during the biennium beginning July 1, 2015, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant

recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(7) Funding for projects in subsections (2) and (5) will be provided only as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment state special revenue account during the biennium beginning July 1, 2015. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)]. However, any of the projects listed in subsections (2) and (5) that have not completed the conditions described in [section 3(1)] by September 30, 2016, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(8) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsections (2) and (5) for the described purposes and in amounts not to exceed the amounts set out in subsections (2) and (5). The grants authorized in this section are subject to the conditions set forth in [sections 2 and 3] and described in the treasure state endowment program 2017 biennium report to the 64th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsections (2) and (5). The department shall commit funds to projects listed in subsections (2) and (5), up to the amounts authorized, based on the manner of disbursement set forth in [sections 2 and 3] until the funds deposited into the treasure state endowment state special revenue account during the biennium beginning July 1, 2015, are expended.

(9) Grant recipients shall complete all of the conditions described in [section 3(1)] by September 30, 2018, or any obligation to the grant recipient will cease.

Section 2. Approval of grants — completion of biennial appropriation. (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [section 1(2) and 1(5)], the emergency infrastructure projects in [section 5], and for the infrastructure planning grants in [section 6].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(3)(c).

(3) Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 3. Condition of grants — disbursements of funds. (1) The disbursement of grant funds for the projects specified in [sections 1(2) and 1(5)] is subject to completion of the following conditions:

(a) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department of commerce.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.

(d) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2017 biennium report to the 64th legislature.

(e) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(f) The grant recipient shall execute a grant agreement with the department of commerce.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the Treasure State Endowment Program Project Administration Manual adopted by the department through the administrative rulemaking process.

Section 4. Other powers and duties of department. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the use of the remaining authorized grant amounts for the construction of additional infrastructure components directly related to the approved project that will further enhance the overall system; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

Section 5. Appropriations from treasure state endowment state special revenue account for emergency grants. There is appropriated to the department of commerce $100,000 for the biennium beginning July 1, 2015, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

Section 6. Appropriations from treasure state endowment state special revenue account for infrastructure planning grants. There is appropriated to the department of commerce $900,000 for the biennium beginning July 1, 2015, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with infrastructure planning grants for infrastructure projects as defined in 90-6-701.

Section 7. Appropriation from treasure state endowment regional water system special revenue account. (1) There is appropriated $3,259,761 to the department of natural resources and conservation for the biennium beginning July 1, 2015, from the treasure state endowment regional water system special revenue account to finance the state's share of regional water system projects authorized in subsection (2) and as set forth in 90-6-715.

(2) Montana's four regional water authorities are authorized to receive the funds appropriated in subsection (1) as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment regional water system special revenue account during the biennium beginning July 1, 2015.

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 9(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the biennium beginning July 1, 2015, under 17-7-302.

Section 8. Approval of funds — completion of appropriation. (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 7(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(d).

Section 9. Conditions — manner of disbursements of funds. (1) The disbursement of funds under [sections 7 and 8] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 11. Coordination instruction. (1) If House Bill No. 180 is not passed and approved with a continuation of the treasure state regional water system fund, then the appropriation to the department of natural resources and conservation in the treasure state endowment regional water system state special account of $3,259,761 provided in [section 7(1) of this act] is reduced to $1,190,000.

(2) If House Bill No. 180 is passed and approved with a continuation of the treasure state regional water system fund, then the appropriation to the department of natural resources and conservation in the treasure state endowment regional water system state special account of $3,259,761 provided

in [section 7(1) of this act] is increased by $1 million, of which up to $441,848 may be granted to the Central Montana Regional Water Authority for the Musselshell-Judith Rural Water System Resources Monitoring project.

(3) If Senate Bill No. 416 is passed and approved providing the opportunity for local governments who had submitted grant requests to the department of commerce within the last 2 years but did not receive approval by the legislature to resubmit their grant request, then grants numbered 25 through 27 in [section 1(2)] are stricken and legislative project approval is withdrawn.

Section 12. Effective date. [This act] is effective July 1, 2015.

Approved April 27, 2015

CHAPTER NO. 301

[HB 411]

AN ACT REVISING THE PRICE OF A BARREL OF CRUDE OIL IN RELATION TO THE IMPOSITION OF PRODUCTION TAX RATES; AMENDING SECTION 15-36-304, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas — exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $30 a barrel. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter as determined in subsection (6)(e), then incremental production from

pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than ~~$38~~ *$54* a barrel. If the price of oil is equal to or greater than ~~$38~~ *$54* a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than ~~$38~~ *$54* a barrel.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil and gas natural resource distribution account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) may not exceed 0.3%. The base rate for the tax for oil and gas natural resource distribution account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil and gas natural resource distribution account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 27, 2015

CHAPTER NO. 302

[SB 279]

AN ACT REQUIRING AN ELECTION UNDER CERTAIN CIRCUMSTANCES IN THE EVENT OF A VACANCY IN THE UNITED STATES SENATE; MODIFYING CERTAIN TIMELINES AND DEADLINES CONCERNING THE ELECTION; ALLOWING THE GOVERNOR TO MAKE CERTAIN TEMPORARY APPOINTMENTS TO FILL VACANCIES AND PROVIDING REQUIREMENTS FOR THE APPOINTMENTS; REQUIRING THE GOVERNOR TO MAKE AN APPOINTMENT TO FILL CERTAIN VACANCIES IN THE LAST YEAR OF AN OFFICE'S TERM; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 13-25-203 AND 13-25-205, MCA; REPEALING SECTION 13-25-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-25-203, MCA, is amended to read:

"13-25-203. Vacancy in office of United States *senator or* representative. (1) If a vacancy occurs in the office of United States *senator or United States* representative, the governor shall immediately order an election to be held to fill the vacancy, except as provided in subsection (3).

(2) The election to fill the unexpired term must be held no less than 85 ~~or~~ *and no* more than 100 days from the date on which the vacancy occurs*:*

(a) between 85 days and 150 days ~~or less before a primary election or between the primary and general elections in odd-numbered years~~ *before a municipal general election*, the election must be held with the ~~primary or~~ *municipal* general election*;*

(b) between January 1 in an even-numbered year and 85 days before a federal primary election, the election must be held with the federal primary election;

(c) less than 85 days before a federal primary election, the election must be held with the federal general election;

(d) between the federal primary election and 85 days before a federal general election, the election must be held with the federal general election;

(e) less than 85 days before a municipal general election or federal general election, the election must be held no less than 85 days and no more than 100 days after the date of the general election.

(3) *(a)* If ~~the~~ *a* vacancy *in the office of United States representative* occurs between the *federal* primary and *the federal* general election in even-numbered years, the candidate elected to the office for the succeeding full term shall immediately take office to fill the unexpired term.

(b) If a vacancy in the office of United States senator occurs in the last year of the office's term, an election for the remainder of the term may not be held if the vacancy occurs between 85 days before the federal primary election and the end of the term. The term of office for a candidate elected to the senate seat at the regularly scheduled general election must commence with the new term.

(4) (a) (i) The governor may make a temporary appointment to fill a vacancy until the election to fill the vacancy is held.

(ii) (A) If the vacancy is subject to the provisions of subsection (3)(b), the governor may make a temporary appointment until the results of the regularly scheduled general election are certified.

(B) When the results are certified, the governor shall appoint the candidate who won the election for the senate seat to fill the remainder of the vacancy.

(b) Unless the appointment is made pursuant to subsection (4)(a)(ii)(B), when a vacancy occurs, if the vacating officeholder represented a political party eligible for primary election under 13-10-601, the person appointed by the governor pursuant to subsection (4)(a)(i) or (4)(a)(ii) must be of the same political party and must be selected by the governor as provided in subsections (5) and (6). However, if the individual vacating the office changed political party affiliations after taking office, the individual who is appointed to fill the vacancy must be of the same political party that the vacating officeholder was when the vacating officeholder was elected or appointed to that office.

(5) Within 3 days after being notified of a vacancy, the governor shall notify the political party that was represented by the vacating officeholder.

(6) (a) Within 15 days after being notified of a vacancy, the state party central committee shall forward to the governor a list of three prospective appointees.

(b) The governor shall select an appointee from the list within 15 days after receiving it."

Section 2. Section 13-25-205, MCA, is amended to read:

"13-25-205. Nominations for special election. (1) When a special election is ordered to fill a vacancy in the office of United States *senator or United States* representative, each political party shall choose a candidate according to the rules of the party. Nominations by parties must be made no later than ~~85~~ *75* days before the date set for the election.

(2) Nominating petitions may be filed by independent candidates for the office up to 5 p.m. of the ~~85th~~ *75th* day before the election."

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

13-25-202. Vacancy in office of United States senator.

Section 4. Effective date. [This act] is effective upon approval by the electorate.

Section 5. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2016 by printing on the ballot the full title of [this act] and the following:

☐ YES on Legislative Referendum _____.

☐ NO on Legislative Referendum _____.

CHAPTER NO. 303

[HB 29]

AN ACT REVISING THE LICENSING AND REGULATION OF REAL ESTATE APPRAISERS; PROVIDING FOR THE REGULATION OF REAL ESTATE APPRAISER MENTORS; PROVIDING FINGERPRINT AND BACKGROUND CHECKS FOR ALL NEW APPLICANTS; REQUIRING CERTIFIED REAL ESTATE APPRAISERS TO MEET EXPERIENCE REQUIREMENTS SET BY THE BOARD; REQUIRING APPRAISAL MANAGEMENT COMPANIES TO ALLOW TRAINEES TO PROVIDE

APPRAISAL ASSISTANCE TO APPRAISERS ON THE COMPANY'S APPRAISAL PANEL; REQUIRING APPRAISAL MANAGEMENT COMPANIES TO ALLOW AN APPRAISER ON THE COMPANY'S APPRAISAL PANEL TO TRANSFER AN APPRAISAL ASSIGNMENT TO A LICENSED EMPLOYEE OF THE APPRAISER; AND AMENDING SECTIONS 37-54-102, 37-54-105, 37-54-202, 37-54-302, 37-54-508, AND 37-54-518, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-54-102, MCA, is amended to read:

"37-54-102. Definitions. Terms commonly used in appraisal practice and as used in this chapter must be defined according to the Uniform Standards of Professional Appraisal Practice, as issued by the appraisal foundation. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Appraisal" means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards of Professional Appraisal Practice as developed by the appraisal foundation.

(2) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

(a) establish and improve uniform appraisal standards by defining, issuing, and promoting those standards;

(b) establish appropriate criteria for the licensure and certification of qualified appraisers by defining, issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other governmental entities; and

(c) develop or assist in the development of appropriate examinations for qualified appraisers.

(3) "Appraisal management company" means, in connection with valuation of properties collateralizing mortgage loans or mortgages incorporated into a securitization, an external third party, authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in this state or 25 or more nationally within a given year.

(4) "Appraisal management services" means the direct or indirect performance of any of the following functions on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit transaction that is secured by a consumer's principal dwelling:

(a) administering an appraiser panel;

(b) recruiting, retaining, or selecting appraisers to be part of an appraisal panel;

(c) qualifying and verifying licensing or certification, negotiating fees, and verifying service level expectations with appraisers who are part of an appraiser panel;

(d) contracting with appraisers from the appraiser panel to perform appraisal assignments;

(e) receiving an order for an appraisal assignment from one person and delivering the order for the appraisal assignment to an appraiser who is part of an appraiser panel for completion;

(f) managing the process of having an appraisal assignment performed, including performing administrative duties such as receiving appraisal assignment orders and reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed;

(g) tracking and determining the status of orders for appraisal assignments;

(h) conducting quality control examinations of a completed appraisal assignment prior to the delivery of the appraisal report to a client who ordered the appraisal assignment; and

(i) providing a completed appraisal report performed by an appraiser to one or more clients.

(5) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. The term does not include a quality control examination.

(6) "Appraiser" means an individual who holds a license or certification to complete an appraisal assignment in the state where the real property that is the subject of the appraisal assignment is located.

(7) "Appraiser panel" means a network of licensed or certified appraisers who are independent contractors with respect to an appraisal management company and who have:

(a) responded to an invitation, request, or solicitation from an appraisal management company to:

(i) perform an appraisal assignment for a client that has ordered an appraisal assignment through the appraisal management company; or

(ii) perform appraisal assignments for the appraisal management company directly on a periodic basis as requested and assigned by the appraisal management company; and

(b) been selected and approved by an appraisal management company to perform appraisal assignments for any client of the company that has ordered an appraisal assignment through the company or to perform appraisal assignments for the appraisal management company directly on a periodic basis as assigned by the appraisal management company.

(8) "Board" means the board of real estate appraisers provided for in 2-15-1758.

(9) "Certified real estate appraiser" means a person who develops and communicates real estate appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.

(10) "Controlling person" means:

(a) an owner, officer, or director of a corporation, partnership, or other business entity that offers appraisal management services in this state;

(b) an individual employed, appointed, or authorized by an appraisal management company to enter into a contractual relationship with other persons for the performance of appraisal management services and to enter into agreements with appraisers for the performance of appraisal assignments; or

(c) an individual who possesses directly or indirectly the power to direct or cause the direction of the management or policies of an appraisal management company.

(11) "Department" means the department of labor and industry provided for in 2-15-1701.

(12) "Licensed real estate appraisal trainee" means a person authorized only to assist a certified real estate appraiser in the performance of an appraisal assignment.

(13) "Licensed real estate appraiser" means a person who holds a current valid real estate appraiser license issued under 37-54-201.

(14) "Person" means an individual, firm, partnership, association, corporation, or other business entity.

(15) "Quality control examination" means an examination of an appraisal report for completeness, including grammatical, mathematical, and typographical errors.

(16) "Real estate appraiser mentor" means a certified real estate appraiser who meets the qualifications set by the board and is approved by the board to supervise licensed real estate appraisal trainees."

Section 2. Section 37-54-105, MCA, is amended to read:

"37-54-105. Powers and duties of board. The board shall:

(1) adopt rules to implement and administer the provisions of this chapter;

(2) establish and collect fees commensurate with the costs of processing an application for licensure and certification and renewal of a license or certificate;

(3) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;

(4) prescribe the examinations for licensure or certification and determine the acceptable level of performance on examinations;

(5) receive and review applications for licensure and certification and issue licenses and certificates;

(6) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;

(7) retain all applications and other records submitted to it;

(8) adopt by rule standards of professional appraisal practice in this state;

(9) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has violated the standards established for licensed and certified real estate appraisers or registered appraisal management companies; ~~and~~

(10) regulate and establish minimum requirements and qualifications for real estate appraiser mentors; and

~~(10)~~*(11)* perform other duties necessary to implement this chapter."

Section 3. Section 37-54-202, MCA, is amended to read:

"37-54-202. Qualifications for licensure. (1) To qualify for a real estate appraiser license, an applicant:

(a) must be of good moral character;

(b) shall successfully complete a course of study prescribed by the board;

(c) must have the type and amount of experience in real estate appraisal prescribed by the board;

(d) shall successfully complete an examination prescribed by the board; and

(e) shall comply with any other requirements related to the practice of real estate appraisal as prescribed by the board by rule.

(2) To qualify for licensure as a real estate appraisal trainee, an applicant:

(a) must be of good moral character;

(b) shall successfully complete a course of study prescribed by the board;

(c) shall provide a written acknowledgment from the ~~certified real estate appraiser~~ *real estate appraiser mentor* that the applicant will be assisting; and

(d) is not required to take an examination.

(3) As a prerequisite to the issuance of a real estate appraiser license or real estate appraisal trainee license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint and background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 4. Section 37-54-302, MCA, is amended to read:

"37-54-302. Certification process — fees. (1) An application for certification, original certification, or renewal of certification must be made in writing to the board on forms approved by the board.

(2) A fee established by the board by rule must accompany the application.

(3) When an applicant files an application for original certification or renewal of certification, the applicant shall sign a pledge to comply with the standards of professional appraisal practice established for certified real estate appraisers under 37-54-403 and affirm that the applicant understands the types of misconduct for which disciplinary action may be initiated under 37-1-308.

(4) To be eligible for original certification as a real estate appraiser, an applicant shall:

(a) specify the class or classes of certification for which the applicant is applying and provide evidence satisfactory to the board that the applicant has the education required for the class or classes of certification for which application is made; and

(b) pass an examination prescribed by the board*; and*

(c) have the type and amount of experience in real estate appraisal prescribed by the board.

(5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board.

(6) As a prerequisite to certification as a real estate appraiser, the board shall require the applicant to submit fingerprints for the purpose of fingerprint and background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(7) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines the applicant is not, the license may be denied."

Section 5. Section 37-54-508, MCA, is amended to read:

"37-54-508. Limitations. *(1)* An appraisal management company registered in this state pursuant to this chapter may not enter into contracts or agreements with an individual for the performance of appraisals unless the company obtains verification that the individual is licensed or certified to perform appraisals pursuant to this chapter. Verification by reference to information published on the website of the appraisal subcommittee of the federal financial institutions examination council must be considered acceptable for purposes of compliance with this section.

(2) Unless prohibited by the policies of a client or an end user of an appraisal report, an appraisal management company may not prevent or otherwise restrict a licensed real estate appraisal trainee from performing work in accordance with the Uniform Standards of Professional Appraisal Practice, pursuant to the requirements of the board, and under the supervision of a real estate appraiser mentor who is on the appraisal management company's appraisal panel.

(3) Unless prohibited by the policies of a client or an end user of an appraisal report or by other state or federal law, an appraisal management company may not prevent or otherwise restrict a licensed or certified real estate appraiser from transferring an appraisal assignment to another licensed or certified real estate appraiser who is on the appraisal management company's appraisal panel if:

(a) the transferee is an employee of the transferor; and

(b) the transferee can complete the appraisal assignment in accordance with the Uniform Standards of Professional Appraisal Practice and pursuant to the requirements of the board."

Section 6. Section 37-54-518, MCA, is amended to read:

"37-54-518. Advertising. (1) An appraisal management company registered in this state shall disclose its registration number on its engagement letter for each appraisal assignment.

(2) ~~An appraiser who completes work for an unregistered or suspended appraisal management company is subject to disciplinary action for unprofessional conduct.~~ An appraiser shall list the appraisal management company's approved registration number in the body of the appraisal report."

Approved April 27, 2015

CHAPTER NO. 304

[HB 78]

AN ACT PROVIDING PRIVACY, DISCLOSURE, AND OTHER CONSUMER PROTECTION REQUIREMENTS FOR MOTOR VEHICLE INSURANCE TELEMATICS AGREEMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Benefit" means any rebate, discount, abatement, credit, reduction of premium, or other advantage to the policyholder provided under the terms of a telematics agreement.

(2) "Policyholder" means a person who is a present named insured in a motor vehicle liability policy as defined in 33-23-204.

(3) "Recorded data" means the data collected, stored, or transmitted by a recording device identifying performance or operation information about a motor vehicle including:

(a) speed;

(b) direction;

(c) location; and

(d) internal controls and diagnostics, such as steering performance, brake performance, or computer diagnostics.

(4) "Recording device" means a device, mechanism, or system installed in or used in conjunction with a motor vehicle that collects, stores, or transmits recorded data. The term includes the following to the extent that they involve recorded data:

(a) event data recorders;

(b) sensing and diagnostic modules;

(c) electronic control modules;

(d) automatic crash notification systems;

(e) geographic information systems;

(f) cellular phones;

(g) personal digital assistants; and

(h) any other device that collects, stores, or transmits recorded data.

(5) "Telematics agreement" means a written agreement between an insurer and a policyholder of the insurer regarding use of a recording device in a motor vehicle to collect or store recorded data or transmit recorded data to the insurer or to a third party designated by the insurer.

Section 2. Telematics agreement disclosures. (1) A telematics agreement must be signed by the policyholder.

(2) A telematics agreement must disclose the following:

(a) if the insurer or a third party designated by the insurer provides the recording device, the categories of recorded data the recording device is capable of collecting, storing, or transmitting;

(b) the identification of any third party that may collect, store, transmit, or receive the recorded data in relation to the terms of the telematics agreement;

(c) the categories of recorded data that may be collected, stored, or transmitted;

(d) the purposes for which the insurer or a third party may use the recorded data;

(e) the length of time the insurer or third party may collect, store, transmit, or otherwise retain the data; and

(f) the terms of any benefit associated with the telematics agreement.

Section 3. Insurer obligations for telematics agreement — termination. (1) An insurer may provide a benefit to a policyholder for participating in a telematics agreement.

(2) Except as provided in subsection (4), an insurer may not cancel, refuse to issue, or refuse to renew a motor vehicle insurance policy solely because a policyholder refuses to:

(a) enter into or consent to a telematics agreement; or

(b) provide access to recorded data from a recording device.

(3) An insurer:

(a) may not reduce coverage, increase a premium, place in a less favorable rate tier, or deny a claim to a policyholder if the policyholder refuses to enter into or consent to a telematics agreement, except as provided in subsection (4) or (7); and

(b) may not, based upon analysis of recorded data collected in connection with the telematics agreement, reduce coverage, increase a premium, place in a less favorable rate tier, deny a claim, or reduce or refuse to provide a benefit to a policyholder, except as provided in subsections (4), (5), and (7).

(4) Subsections (2) and (3) do not apply to a motor vehicle insurance policy:

(a) based upon the policyholder driving a minimum or maximum number of miles or driving within a certain range of miles; and

(b) that requires a policyholder to use a recording device for purposes of determining mileage.

(5) An insurer may adjust the benefit provided under subsection (1) to the extent that an analysis of the recorded data collected through the telematics agreement accurately represents the policyholder's driving habits.

(6) An insurer offering a telematics agreement shall offer all its policyholders under that policy type an equal opportunity to enter into a telematics agreement except to the extent the recording device used under the telematics agreement is not compatible with the motor vehicle of the policyholder.

(7) (a) An insurer may terminate a telematics agreement and any associated benefit if a policyholder materially fails to comply with a term of the telematics agreement.

(b) Termination of a telematics agreement and any associated benefit under this subsection (7) does not constitute a midterm premium increase as provided in 33-15-1108.

(8) An insurer shall terminate a telematics agreement and any associated benefit upon the request of the policyholder.

Section 4. Ownership of data. Recorded data collected, stored, or transmitted by a recording device under a telematics agreement:

(1) is personal information as defined in 33-19-104; and

(2) may not be used by an insurer or third party named in the telematics agreement for uses other than those disclosed in the telematics agreement.

Section 5. Application — exclusion. (1) The provisions of [sections 1 through 6] apply to a telematics agreement entered into between a policyholder and an insurer.

(2) The provisions of [sections 1 through 6] do not apply to a manufacturer of a motor vehicle or supplier of an aftermarket device or services or to its respective subsidiaries or affiliates that embed in or provide a recording device for a motor vehicle as long as the manufacturer or supplier or the respective subsidiaries or affiliates is not acting as an insurer.

Section 6. Rulemaking. The commissioner may adopt rules necessary to implement the provisions of [sections 1 through 6].

Section 7. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited — property, casualty, and surety insurances — *exception.* (1) ~~A~~ *Except as provided in subsections (3) and (10)(a), a* title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may

not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) ~~An~~ *Except as provided in subsections (3) and (10)(a), an* insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics agreement as provided in [sections 1 through 6].

~~(3)~~*(4)* An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

~~(4)~~*(5)* This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

~~(5)~~*(6)* An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(6)~~*(7)* An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

~~(7)~~*(8)* An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or

marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

~~(8)~~*(9)* An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

~~(9)~~*(10)* (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history that is 3 years old or older.

(b) An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or older.

(c) As used in subsection ~~(9)(a)~~ *(10)(a)*, "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

~~(10)~~*(11)* An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault."

Section 8. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 33, chapter 23, part 2, and the provisions of Title 33, chapter 23, part 2, apply to [sections 1 through 6].

Section 9. Applicability. [This act] applies to telematics agreements entered into or renewed on or after January 1, 2016.

Approved April 27, 2015

CHAPTER NO. 305

[HB 180]

AN ACT EXTENDING THE TERMINATION DATE OF THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND; AND AMENDING SECTION 6, CHAPTER 495, LAWS OF 1999, SECTION 1, CHAPTER 70, LAWS OF 2001, SECTIONS 15 AND 16, CHAPTER 389, LAWS OF 2011, AND SECTIONS 8, 9, AND 10, CHAPTER 390, LAWS OF 2013.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 8, Chapter 390, Laws of 2013, is amended to read:

"**Section 8.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"Section 6. Termination. [This act] terminates June 30, ~~2013~~ *2016 2031*.""

Section 2. Section 9, Chapter 390, Laws of 2013, is amended to read:

"**Section 9.** Section 15, Chapter 389, Laws of 2011, is amended to read:

"**Section 15.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"Section 6. Termination. [This act] terminates June 30, ~~2013~~ *2020 2016 2031*."""

Section 3. Section 10, Chapter 390, Laws of 2013, is amended to read:

"Section 10. Section 16, Chapter 389, Laws of 2011, is amended to read:

"Section 16. Section 1, Chapter 70, Laws of 2001, is amended to read:

"Section 1. Section 6, Chapter 495, Laws of 1999, is amended to read:

"Section 6. Termination. ~~[This act]~~ *[This act]* ~~terminates~~ *terminates* June 30, ~~2013~~ *2016 2020 2016 2031*."""""

Approved April 27, 2015

CHAPTER NO. 306

[HB 258]

AN ACT CREATING THE MONTANA BENEFIT CORPORATION ACT; AUTHORIZING AND REGULATING THE FORMATION AND GOVERNANCE OF BENEFIT CORPORATIONS; ALLOWING AN EXISTING CORPORATION TO BECOME A BENEFIT CORPORATION; PROVIDING THAT A BENEFIT CORPORATION MAY BE FORMED FOR THE PURPOSE OF CREATING GENERAL PUBLIC BENEFIT OR SPECIFIC PUBLIC BENEFITS; REQUIRING DIRECTORS TO CONSIDER THE IMPACTS OF ANY ACTION OR PROPOSED ACTION ON SPECIFIED CONSTITUENCIES; REQUIRING THE BOARD OF DIRECTORS TO PREPARE A STATEMENT RELATING TO THE PUBLIC BENEFIT PURPOSES OF THE CORPORATION; REQUIRING THE BENEFIT CORPORATION TO ANNUALLY PREPARE AND DISSEMINATE A BENEFIT REPORT; DESCRIBING THE LIMITED FIDUCIARY DUTY AND LIABILITY OF A DIRECTOR OR OFFICER OF A BENEFIT CORPORATION; AND PROVIDING THAT THE DUTIES OF A DIRECTOR OR OFFICER AND THE PUBLIC BENEFIT PURPOSE OF A BENEFIT CORPORATION MAY BE ENFORCED ONLY IN A BENEFIT ENFORCEMENT PROCEEDING.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 12] may be known and may be cited as the "Montana Benefit Corporation Act".

Section 2. Definitions. As used in [sections 1 through 12], the following definitions apply:

(1) "Benefit corporation" means a corporation organized in this state that has elected to become subject to [sections 1 through 12] and whose status as a benefit corporation has not been terminated as provided in [section 8].

(2) "Benefit enforcement proceeding" means a claim or action relating to:

(a) failure to pursue the general public benefit purpose of the benefit corporation or any specific public benefit purpose set forth in its articles of incorporation;

(b) violation of a duty or standard of conduct imposed on a director or officer pursuant to [sections 1 through 12]; or

(c) failure of the benefit corporation to deliver, provide, or post an annual benefit report as required in [section 10].

(3) "Director" means an individual elected to or otherwise serving on the board of directors of a benefit corporation.

(4) "General public benefit" means a material, positive impact on society and the environment, taken as a whole, as assessed against a third-party standard, from the business and operations of a benefit corporation.

(5) "Independent" means having no material relationship with a benefit corporation or a subsidiary of a benefit corporation.

(6) "Minimum status vote" means:

(a) in the case of a corporation, that in addition to any other approval or vote required by law or by the articles of incorporation:

(i) the shareholders of every class or series are entitled to vote on the corporate action regardless of any limitation stated in the articles of incorporation; and

(ii) the corporate action must be approved by the outstanding shares of each class or series by at least two-thirds of the votes that all shareholders of the class or series are entitled to cast on that action or by a greater vote if required in the articles of incorporation; or

(b) in the case of a domestic business entity other than a corporation and in addition to any other approval, vote, or consent required by law that principally governs the internal affairs of the domestic business entity or any provision of the publicly filed record or document required to form the domestic business entity, if any, or of any agreement binding some or all of the holders of equity interests in the entity:

(i) the holders of every class or series of interest in the entity that are entitled to receive a distribution of any kind from the entity are entitled to vote on the action regardless of any otherwise applicable limitation on the voting rights of the interest; and

(ii) the action must be approved by the vote or consent of the holders described in subsection (6)(b)(i) by at least two-thirds of the votes of the holders or by a greater vote if required in the publicly filed record, document, or agreement binding holders of equity interests.

(7) "Specific public benefit" means:

(a) providing low-income or underserved individuals or communities with beneficial products or services;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the ordinary course of business;

(c) preserving the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a public benefit purpose; or

(g) the accomplishment of any other particular benefit for society or the environment.

(8) "Subsidiary" means an entity in which a parent entity owns beneficially or of record 50% or more of the outstanding equity interests of the subsidiary. For the purposes of this definition, the percentage of ownership held by a parent entity in a subsidiary must be calculated as if all outstanding rights to acquire equity interests in the subsidiary have been exercised.

(9) "Third-party standard" means a standard for defining, reporting, and assessing overall corporate social and environmental performance to which all of the following apply:

(a) the standard is a comprehensive assessment of the impact of the business and the business's operations on the considerations listed in [section 6(2)(a)];

(b) the standard is developed by an entity that has no material financial relationship with the benefit corporation or any of its subsidiaries and:

(i) not more than one-third of the members of the governing body of the entity are representatives of:

(A) associations of businesses operating in a specific industry for which the performance is measured by the standard;

(B) businesses from a specific industry or an association of businesses in that industry; or

(C) businesses whose performance is assessed against the standard; and

(ii) the entity is not materially financed by an association or business described in subsection (9)(b)(i);

(c) the standard is developed by an entity that:

(i) accesses necessary and appropriate expertise to assess overall corporate social and environmental performance; and

(ii) uses a balanced multistakeholder approach, including a public comment period of at least 30 days, to develop the standard; and

(d) the following information regarding the standard is publicly available:

(i) the criteria considered when measuring the overall social and environmental performance of a business;

(ii) the relative weightings assigned to the criteria described in subsection (9)(d)(i);

(iii) the identity of the directors, the officers, any material owners, and the governing body of the entity that developed and controls revisions to the standard;

(iv) the process by which revisions to the standard and changes to the membership of the governing body of the entity described in subsection (9)(d)(iii) are made; and

(v) an accounting of the sources of financial support for the entity with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest.

Section 3. Purpose. (1) The purpose of a benefit corporation is to create general public benefit. This purpose is in addition to and may be a limitation on the corporation's purpose under 35-1-114 and any specific public benefit purpose set forth in the corporation's articles of incorporation in accordance with subsection (2).

(2) In addition to the applicable provisions required under 35-1-216, the articles of incorporation of a benefit corporation must contain the following statement: "This corporation is a benefit corporation." The articles of incorporation of a benefit corporation may identify one or more specific public benefits as the purpose or purposes of the benefit corporation. The identification of a specific public benefit under this subsection does not limit the obligation of a benefit corporation to create general public benefit.

(3) The creation of general public benefit and one or more specific public benefits as provided in subsections (1) and (2) is considered to be in the best interests of the benefit corporation.

(4) A benefit corporation may amend its articles of incorporation to add, amend, or delete the identification of a specific public benefit as a purpose of the

benefit corporation to create. The amendment is effective only if the amendment is adopted by at least the minimum status vote.

Section 4. Applicability. (1) Unless otherwise provided in [sections 1 through 12], the provisions of Title 35, chapter 1, apply to all benefit corporations.

(2) The provisions of [sections 1 through 12] do not:

(a) imply that a contrary or different rule of law does or would apply to a business corporation that is not a benefit corporation; or

(b) affect any provision of [sections 1 through 12] that does or would apply to a corporation that is not a benefit corporation.

Section 5. Benefit corporation — formation. A benefit corporation may be formed in accordance with [sections 1 through 12]. The articles of incorporation must:

(1) state that the corporation is a benefit corporation; and

(2) identify any specific public benefits adopted pursuant to [section 3].

Section 6. Benefit corporation governance — liability. (1) A director of a public benefit corporation shall:

(a) perform the duties of a director in good faith and in a manner the director believes to be in the best interests of the benefit corporation; and

(b) conduct reasonable inquiry in the manner that a prudent person in a similar position would conduct under similar circumstances.

(2) In discharging their respective duties and in considering the best interests of the benefit corporation, the board of directors, committees of the board, and individual directors of a benefit corporation:

(a) shall consider the impacts of every action or proposed action on:

(i) the shareholders of the benefit corporation;

(ii) the employees and workforce of the benefit corporation and its subsidiaries and suppliers;

(iii) the interests of customers of the benefit corporation as beneficiaries of the general public benefit purpose or any specific public benefit purpose of the benefit corporation;

(iv) community and societal considerations, including those of a community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;

(v) the local and global environment;

(vi) the short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that the interests may be best served by retaining control of the benefit corporation rather than selling or transferring control to another person; and

(vii) the ability of the benefit corporation to accomplish its general public benefit purpose and any specific public benefit purpose;

(b) may consider:

(i) the resources, intent, and conduct, including past, stated, and potential conduct, of any person seeking to acquire control of the benefit corporation; and

(ii) any other pertinent factors or the interests of any other person or group; and

(c) are not required to give priority to any particular factor or the interests of any particular person or group referred to in this subsection (2) over any other

factor or the interests of any other person or group unless the benefit corporation has stated its intention to give priority to a specific public benefit purpose identified in the articles of incorporation.

(3) In performing the duties of a director, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) one or more officers or employees of the benefit corporation whom the director believes to be reliable and competent in the matters presented;

(b) counsel, independent accountants, or other persons as to matters that the director believes to be within those persons' professional or expert competence; or

(c) a committee of the board on which the director does not serve if the director believes the committee merits confidence and if the director acts in good faith and without knowledge that would cause the director's confidence in the committee to be unwarranted.

(4) A person who performs the duties of a director in accordance with [sections 1 through 12] is not liable for monetary damages for any alleged failure:

(a) to discharge the person's obligations as a director; or

(b) of the benefit corporation to pursue or create general public benefit or a specific public benefit.

(5) In addition to the limitations provided in subsection (4), the liability of a director for monetary damages may be eliminated or limited in a benefit corporation's articles of incorporation to the extent provided for in 35-1-216(2)(d).

(6) A director does not have a duty to a person who is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Section 7. Conversion to benefit corporation. (1) A corporation may become a benefit corporation under [sections 1 through 12] by amending the corporation's articles of incorporation to include a statement that the corporation is a benefit corporation. The amendment is effective only if it is adopted by at least the minimum status vote. If the amendment is adopted, a shareholder of the corporation may require the corporation to purchase at fair market value the shares owned by the shareholder as provided for in 35-1-827.

(2) If a corporation or other entity that is not a benefit corporation is a constituent corporation or entity in a merger reorganization or is the acquired corporation or entity in an exchange reorganization and the surviving corporation in the merger or exchange reorganization is to be a benefit corporation or the articles of incorporation of the acquired corporation or entity are to be amended in the merger or exchange reorganization to provide that the newly formed corporation will be a benefit corporation, the reorganization is effective only if it is approved by the newly formed corporation or other entity by at least the minimum status vote.

(3) If any other entity is a party to a merger reorganization and the surviving corporation in the reorganization is to be a benefit corporation, the reorganization is effective only if the reorganization is approved by the other entity by at least the minimum status vote.

(4) If another entity is the converting entity in a conversion in which the converted corporation is a benefit corporation, the conversion is effective only if

the conversion is approved by the other entity by at least the minimum status vote.

Section 8. Termination — reorganization — other actions affecting benefit corporation. (1) A benefit corporation may terminate its status as a benefit corporation and cease to be subject to [sections 1 through 12] by deleting from the benefit corporation's articles of incorporation the statement and identification of public benefits required under [section 5]. The amendment is effective only if the amendment is adopted by at least the minimum status vote. If the amendment is adopted, a shareholder of the corporation may require the corporation to purchase at fair market value the shares owned by the shareholder as provided for in 35-1-827.

(2) If a reorganization of a benefit corporation would terminate the status of the corporation as a benefit corporation, the reorganization is effective only if the reorganization is approved by at least the minimum status vote.

(3) If a benefit corporation is the converting corporation in a conversion, the conversion is effective only if the conversion is approved by at least the minimum status vote.

(4) A sale, lease, conveyance, exchange, transfer, or other disposition of all or substantially all of the assets of a benefit corporation, unless the transaction is in the usual and ordinary course of business of the benefit corporation, is effective only if the transaction is approved by at least the minimum status vote. If a transaction described in this subsection is not in the usual and ordinary course of business and is approved, a shareholder of the corporation may require the corporation to purchase at fair market value the shares owned by the shareholder as provided in 35-1-827.

Section 9. Officers — duty — limits. (1) Each officer of a benefit corporation shall consider the interests and factors described in [section 6] in the manner provided in [section 6] whenever the officer:

(a) has discretion to act with respect to a matter; and

(b) reasonably believes that the matter may have a material effect on:

(i) the creation of general public benefit or a specific public benefit by the benefit corporation; or

(ii) any of the interests or factors referred to in [section 6(2)].

(2) The consideration by an officer of interests and factors in the manner described in subsection (1) does not constitute a violation of the duties of the officer.

(3) An officer is not liable for monetary damages under [sections 1 through 12] for:

(a) any action taken as an officer if the officer performed the duties of the position in compliance with this section; or

(b) any failure of the benefit corporation to create general public benefit or a specific public benefit.

(4) An officer does not have a fiduciary duty to a person who is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Section 10. Report. (1) Each year, the board of directors of a benefit corporation shall have prepared and delivered to each shareholder an annual benefit report that must include:

(a) a narrative description of:

(i) the process used and rationale for selecting the third-party standard used to prepare the benefit report;

(ii) the ways in which the benefit corporation pursued general public benefit during the applicable year and the extent to which general public benefit was created;

(iii) the ways in which the benefit corporation pursued any specific public benefit that the articles of incorporation state it is the purpose of the benefit corporation to create and the extent to which the specific public benefit was created; and

(iv) any circumstances that may have hindered the creation by the benefit corporation of general public benefit or any specific public benefit;

(b) an assessment of the overall social and environmental performance of the benefit corporation prepared in accordance with a third-party standard applied consistently with any application of that standard in prior benefit reports or accompanied by an explanation of the reasons for any inconsistent application;

(c) a statement indicating whether the benefit corporation failed to pursue its general public benefit purpose or any specific public benefit purpose in all material respects during the period covered by the report;

(d) the same statement required by [section 11] to be printed on ownership certificates; and

(e) a statement of any connection between the entity that established the third-party standard or the entity's directors, officers, or material owners and the benefit corporation or the benefit corporation's directors, officers, and material owners, including any financial or governance relationship that might materially affect the credibility of the objective assessment reached by using the third-party standard.

(2) If the statement required under subsection (1)(c) indicates that the benefit corporation failed to pursue its general public benefit purpose or any specific public benefit purpose, the annual benefit report must include a description of the ways in which the benefit corporation failed to pursue the general public benefit purpose or specific public benefit purpose.

(3) The report must be provided to each shareholder within 120 days following the end of each fiscal year of the benefit corporation or at the same time that the benefit corporation delivers any other annual report to its shareholders. The report may be provided electronically or by other means.

(4) (a) Subject to the provisions of subsection (4)(c), a benefit corporation shall post all of its benefit reports on the public portion of its internet website, if any.

(b) If a benefit corporation does not have an internet website, the benefit corporation shall provide, without charge, a copy of its most recent benefit report to any person who requests a copy.

(c) The benefit corporation may omit the compensation paid to directors or any proprietary or financial information from the copy of a benefit report posted pursuant to subsection (4)(a) or provided pursuant to subsection (4)(b).

Section 11. Ownership certificates. In addition to all other legal requirements, each certificate representing shares of a benefit corporation must have conspicuously printed on the face of the certificate: "This entity is a benefit corporation organized under [section 1] through [section 12] of the Montana Code Annotated."

Section 12. Enforcement. (1) A person may bring an action or assert a claim against a benefit corporation or its directors or officers only through a benefit enforcement proceeding under this section.

(2) A benefit enforcement proceeding may be commenced or maintained:

(a) directly by the benefit corporation; or

(b) derivatively by:

(i) a shareholder;

(ii) a director;

(iii) a person or group of persons that owns beneficially or of record 5% or more of the equity interests in an entity of which the benefit corporation is a subsidiary; or

(iv) any other person who may be specified in the articles of incorporation of the benefit corporation.

(3) A benefit corporation is not liable for monetary damages for any failure of the benefit corporation to create general public benefit or a specific public benefit.

(4) If the court in a benefit enforcement proceeding finds that a failure to comply with [sections 1 through 12] was without justification, the court may award an amount sufficient to reimburse the plaintiff for the reasonable expenses incurred by the plaintiff, including attorney fees and expenses, in connection with the benefit enforcement proceeding.

Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 14. Codification instruction. [Sections 1 through 12] are intended to be codified as an integral part of Title 35, chapter 1, and the provisions of Title 35, chapter 1, apply to [sections 1 through 12].

Approved April 27, 2015

CHAPTER NO. 307

[HB 373]

AN ACT INCREASING THE DEBT LIMIT FOR AN ELEMENTARY DISTRICT, A K-12 DISTRICT, OR A HIGH SCHOOL DISTRICT; AMENDING SECTIONS 20-9-406 AND 20-9-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue — definition of federal impact aid basic support payment — oil and natural gas payment. (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is ~~50%~~ *100%* of the taxable value of the property subject to taxation, as ascertained by the last

assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, ~~is up to 100%~~ *regardless of whether the general obligation bonds finance elementary program improvements or high school program improvements, is the sum of 100%* of the taxable value of the property *in its elementary program* subject to taxation *and 100% of the taxable value of the property in its high school program subject to taxation*, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(c) (i) ~~The~~ *Unless the maximum amount calculated under subsection (1)(a) yields a greater amount, the* maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is ~~50% of~~ the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, *unless the maximum amount calculated under subsection (1)(b) yields a greater amount,* the maximum amount for which the district may become indebted is ~~50% of~~ the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to general obligation bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the amount are void, except as provided in this section.

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's

annual federal impact aid basic support payments for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

(4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331, 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation provided in subsection (1) of this section applies to the bonds.

(5) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(6) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly.

(7) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

Section 2. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility that seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the ~~50%~~ limitation prescribed in 20-9-406. Under an agreement, the school district may, with the approval of the voters, issue bonds that exceed the limitation prescribed in this section by a maximum of ~~50%~~ *100%* of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation must be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value must be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, as much of the principal and interest on the bonds provided for under this section as represents

payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility is entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit must as a total amount be equal to the amount that the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 308

[HB 379]

AN ACT REVISING CERTAIN PROVISIONS RELATED TO THE ADMINISTRATION OF TAXES; AMENDING PROVISIONS FOR THE WAIVER OF INTEREST; REVISING THE LATE FILING PENALTY; PROVIDING AN AUTOMATIC EXTENSION FOR THE FILING OF INDIVIDUAL INCOME TAXES; REVISING THE UNIFORM PENALTY ASSESSMENTS ON DELINQUENT TAXES; PROVIDING THAT INTEREST ASSESSMENTS ON DELINQUENT INCOME TAXES ARE BASED ONLY ON THE FEDERAL UNDERPAYMENT RATE ASSESSED AGAINST INDIVIDUAL INCOME TAXPAYERS; PROVIDING THAT THE PENALTIES FOR SUBSTANTIAL UNDERSTATEMENT OF A TAX OR FOR FILING A FRAUDULENT OR FRIVOLOUS RETURN OR REPORT ARE SIMILAR TO FEDERAL PENALTIES; CLARIFYING THE ALLOCATION OF A FEDERAL INCOME TAX REFUND; DECREASING THE STATUTES OF LIMITATION FOR INDIVIDUAL INCOME TAX FROM 5 YEARS TO 3 YEARS TO BE UNIFORM WITH OTHER TAX TYPES; AMENDING SECTIONS 15-1-206, 15-1-216, 15-30-2110, 15-30-2339, 15-30-2341, 15-30-2512, 15-30-2531, 15-30-2604, 15-30-2605, 15-30-2606, 15-30-2607, 15-30-2609, 15-30-2643, AND 15-30-3003, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-206, MCA, is amended to read:

"15-1-206. Waiver of penalties — interest. (1) The department may, in its discretion, waive, for reasonable cause, any penalty assessed by the department.

(2) Whenever the department waives a penalty provided for in this title, it also may, in its discretion, waive interest not to exceed ~~$100 due upon the tax~~ *$500 due for each tax period. When the department enters into a payment plan with a taxpayer that allows the taxpayer to make installment payments of delinquent taxes, interest, and penalties, the department may, at the conclusion of the payment plan term, agree to waive an additional $100 of interest for each tax period if the taxpayer has complied with all of the provisions of the payment plan*."

Section 2. Section 15-1-216, MCA, is amended to read:

"15-1-216. Uniform penalty and interest assessments for violation of tax provisions — applicability — exceptions — uniform provision for interest on overpayments. (1) A person who fails to file a required tax return or other report with the department by the due date *of the return or report*, including any extension of time *allowed for in Title 15, chapter 30 or 31*, ~~of the return or report~~ must be assessed a late filing penalty ~~of $50 or the amount of the tax due, whichever is less~~. *The penalty is the greater of $50 or 5% of the tax due for each month during which there is a failure to file the return or report, not to exceed an amount up to 25% of the tax due. The late filing penalty is calculated from the due date or extended due date until the department actually receives the late return or report. The penalty is computed only on the net amount of tax due, if any, as of the original due date or extended due date provided for in Title 15, chapter 30 or 31, after credit has been given for amounts paid through withholding, estimated tax payments, or other credits claimed on the return.*

(2) (a) *(i)* Except as provided in ~~15-30-2604(3)(c) and subsection~~ *subsections (2)(a)(ii),* (2)(b)*, and (2)(d)* ~~of this section~~, a person who fails to pay a tax when due must be assessed a late payment penalty of ~~1.2%~~ *0.5%* a month ~~or fraction of a month~~ on the unpaid tax. The penalty may not exceed 12% of the tax due.

(ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

(A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due; or

(B) subject to the conditions of 15-30-2512(1)(a)(i), the taxpayer pays at least 90% of the tax, when due, for the current year.

(b) *(i)* ~~A~~ *Except as provided in subsections (2)(b)(ii) and (2)(d), a* person who fails to pay a tax when due under *Title 15,* chapter 30, part 25, chapter 53, chapter 65, or chapter 68*, or Title 53, chapter 19, part 3,* must be assessed a late payment penalty of 1.5% a month ~~or fraction of a month~~ on the unpaid tax. The penalty may not exceed 15% of the tax due.

(ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due.

(c) ~~Except as provided in 15-30-2604(3)(c), the~~ *The* penalty imposed under subsection (2)(a) or (2)(b) ~~of this section~~ accrues *daily* on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.

(d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

(3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement" means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the taxpayer reported on the return. For purposes of this subsection (3):

(i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for Title 15, chapter 30, part 33, if the understatement

exceeds the greater of 10% of the amount of tax required to be shown on the return or $3,000; and

(ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15, including Title 15, chapter 30, part 33, and for Title 16, chapter 11, and Title 53, chapter 19, part 3, if the understatement exceeds the lesser of:

(A) 10% of the amount of tax required to be shown on the return if the understatement is greater than $10,000; or

(B) $500,000.

(b) The amount of substantial understatement of tax penalty must be reduced by the amount of the understatement that is attributable to:

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment; or

(ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item by the taxpayer.

~~(3)~~*(4) (a)* ~~A~~ *Except as provided in subsection (4)(b), a* person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return *or report as required under Title 15* when due or fails to file a return *or report* within 60 days after receiving written notice from the department that a return *or report* must be filed is liable for an additional penalty of ~~not less than $1,000 or more than $10,000~~ *15% of the tax due for each month or fraction of a month during which the person purposely or knowingly fails to file a return or report, but not to exceed 75% of the tax due as determined by the department*. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days after receiving written notice from the department that a return or report must be filed is liable for an additional penalty of $1,000. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or report. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

(b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount paid.

(6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty imposed, for a penalty of $2,500. A frivolous return or report is one that is filed by a person and that omits information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

~~(4)~~*(7)* (a) ~~Except as provided in 15-30-2604(3)(c), interest~~ *Interest* on taxes not paid when due must be assessed by the department. The department shall determine the interest ~~rates~~ *rate* established under subsection ~~(4)(a)(i)~~ *(7)(a)(i)* for each calendar year by rule subject to the conditions of this subsection ~~(4)(a)~~ *(7)(a)*. Interest rates on taxes not paid when due for a calendar year are as follows:

(i) ~~For~~ *(A) For individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. 6621, for the fourth quarter of the preceding year or 8%, whichever is greater.*

(B) Beginning January 1, 2018, for individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. 6621, for the ~~fourth~~ *third* quarter of the preceding year ~~or 8%, whichever is greater~~.

(ii) For all taxes other than individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is 12% *a year*.

(b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. ~~Except as provided in 15-30-2604(3)(c), interest~~ *Interest* accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

~~(5)~~*(8)* (a) Except as provided in subsection ~~(5)(b)~~ *(8)(b)*, this section applies to taxes, fees, *remittances,* and other assessments imposed under ~~Titles~~ *Title* 15*,* ~~and~~ *Title* 16*,* ~~[and the former 85-2-276]~~ *and Title 53, chapter 19, part 3*.

(b) This section does not apply to:

(i) property taxes; or

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70.

~~(6)~~*(9)* Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in effect at the time the tax accrued.

~~(7)~~*(10)* ~~Except as provided in 15-30-2604, penalty~~ *Penalty* and interest must be calculated and assessed commencing with the due date of the return.

~~(8)~~*(11)* Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

~~(9)~~*(12)* Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection ~~(4)(a)(i)~~ *(7)(a)(i)*. ~~(Bracketed language in subsection (5)(a) terminates June 30, 2020—sec. 18, Ch. 288, L. 2005.)~~"

Section 3. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection (13), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability *as determined under subsection (15)*;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), ~~for tax years commencing after December 31, 2002,~~ the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii) *and subject to subsection (14)*, the first $3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) *subject to subsection (14),* for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must

be reduced by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the

federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed $5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c).

(15) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the following order as applicable:

(a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax year;

(b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year but did not result in a reduction in state income tax liability in that prior tax year; and

(c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year and that reduced the taxpayer's state income tax liability in that prior tax year. (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 4. Section 15-30-2339, MCA, is amended to read:

"15-30-2339. Residential property tax credit for elderly — filing date. (1) Except as provided in subsection (3), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought.

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) In the event that an individual who would have a claim under 15-30-2337 through 15-30-2341 dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under 15-30-2337 through 15-30-2341 within ~~5~~ *3* years from the last day prescribed for filing a claim for relief."

Section 5. Section 15-30-2341, MCA, is amended to read:

"15-30-2341. Residential property tax credit for elderly — limitations — denial of claim. (1) Only one claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 is entitled to relief.

(2) Except as provided in subsection (3), a claim for relief may not be allowed for any portion of property taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(4) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid, *penalties, and interest* may be recovered as ~~any other debt owed to the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt must bear interest from the date of the original payment of claim until paid, at the rate of 1% per month~~ *provided in 15-1-216*."

Section 6. Section 15-30-2512, MCA, is amended to read:

"15-30-2512. Estimated tax — payment — exceptions — interest. (1) (a) Each individual subject to tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax payments, at least:

(i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or

(ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax year was a period of 12 months and if the individual filed a return for the tax year.

(b) Payment of estimated taxes under this section is not required if:

(i) the combined tax liability of employer withholding and estimated tax for the current year is less than $500 after reductions for credits and withholding;

(ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12 months, and if the individual was a citizen or resident of the United States throughout that tax year;

(iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that the department determines to constitute good cause; or

(iv) the individual retired in the tax year after having attained the age of 62 or if the individual became disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year following the tax year in which the individual retired or became disabled.

(2) Estimated taxes must be paid in four installments according to one of the following schedules:

(a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on January 1, estimated tax payments are due on the following dates:

Installment	Date
First	April 15
Second	June 15
Third	September 15
Fourth	January 15 of the following tax year

(b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on a date other than January 1, estimated tax payments are due on the following dates:

Installment	Date
First	15th day of the 4th month following the beginning of the tax year
Second	15th day of the 6th month following the beginning of the tax year
Third	15th day of the 9th month following the beginning of the tax year
Fourth	15th day of the month following the close of the tax year

(3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding installment must be proportionally changed so that the balance of the required annual payment is paid in equal installments over the remaining period of time.

(b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required. For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments, respectively. For estimated taxes required to be paid beginning with the third installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

(4) (a) If for any required installment the taxpayer determines that the installment payment is less than the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income installment.

(b) For any required installment, the annualized income installment is the applicable percentage described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax year for the months ending before the due date for the installment less the total amount of any prior required installments for the tax year.

(c) For the purposes of this subsection (4), the applicable percentage is determined according to the following schedule:

Required Installment	Applicable Percentage
First	22.5%
Second	45%
Third	67.5%
Fourth	90%

(d) A reduction in a required installment resulting from the application of an annualized income installment must be recaptured by increasing the amount of the next required installment, determined under subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount of the reduction until the amount has been recaptured.

(5) (a) ~~If~~ *Subject to subsection (5)(f), if* an estimated tax, an employer withholding tax, or a combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this chapter interest on the amount of the underpayment as provided in 15-1-216. The interest is computed on the amount of the underpayment, as determined in subsection (5)(b), for the period from the time the payment was due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made, whichever is earlier.

(b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the underpayment is the required installment amount less

the installment amount paid, if any, on or before the due date for the installment.

(c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment must be credited against unpaid required installments in the order in which those installments are required to be paid.

(d) For a married taxpayer filing separately on the same form, the interest provided for in subsection (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on the taxpayer's return.

(e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated taxes if:

(i) the taxpayer pays in full the amount computed on the return as payable; and

(ii) the taxpayer files a return on or before the last day of the month following the close of the tax year referred to in subsection (2)(a) or (2)(b).

(f) Interest on the underpayment of estimated tax may not be assessed against a taxpayer if the tax paid by the taxpayer from employer withholding and estimated tax payments satisfies the requirements of subsection (1)(a)(i) or (1)(a)(ii) and the taxpayer has paid approximately equal quarterly installments of estimated taxes.

(6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3% of the taxpayer's gross income, as defined in 15-30-2101, from farming or ranching operations, or both.

(7) The department shall promulgate rules governing reasonable extensions of time for paying the estimated tax. An extension may not be for more than 6 months."

Section 7. Section 15-30-2531, MCA, is amended to read:

"15-30-2531. Credits and refunds — period of limitations. (1) If the department determines by examination of an employer's account, or upon claim filed by an employer, that the employer has overpaid the amount of tax, penalty, or interest, the amount of the overpayment may be refunded to the employer or applied to current or future obligations of any tax, penalty, or interest for any tax contained in this title at the discretion of the taxpayer.

(2) A credit or refund may be allowed only if the claim is filed or the determination is made within ~~5~~ *3* years of the due date prescribed for filing a report or 1 year from the date of the notification of the overpayment by the department.

(3) The department shall notify the employer of the overpayment and the credit or refund options available to the employer. A credit must be applied to the employer account unless directed otherwise by the employer.

(4) If a claim is disallowed, the department shall notify the employer. The decision disallowing the claim is subject to review as provided in 15-1-211.

(5) Interest is:

(a) allowed on an overpayment at the same rate as charged for late tax payments under this part;

(b) payable from the due date of the payment or the date overpayment was verified, whichever is later;

(c) not payable if the overpayment is applied to current or future obligations with the department.

(6) Interest is not allowed if the overpayment is refunded within 45 days from the date the employer directs the department to refund the overpayment.

(7) If additional information is required to verify the amount of the overpayment, the 45-day period in subsection (6) does not begin until the information is provided."

Section 8. Section 15-30-2604, MCA, is amended to read:

"15-30-2604. Time for filing — extensions of time. (1) (a) Except as provided in subsection (1)(b), a return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before April 15 following the close of the calendar year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal revenue service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(2) The return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. An affidavit or affirmation must be attached to the return from the persons making the return verifying that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve the taxpayer of the obligation to make a return required under this chapter. A taxpayer liable for a tax under this chapter shall pay a minimum tax of $1.

(3) (a) ~~Subject to subsections (3)(b) and (3)(c), a~~ *A* taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

(b) ~~(i) Except as provided in subsection (3)(c), on or before the due date of the return, the taxpayer shall pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.~~

~~(ii)~~ The ~~remaining~~ tax, penalty, and interest ~~of the current year's tax liability not paid under subsection (3)(b)(ii)~~ *due* must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.

~~(c) A taxpayer that has a tax liability of $200 or less for the current year may pay the entire amount of the tax, without penalty or interest under 15-1-216, on or before the due date of the return under subsection (3)(a). If the tax is not paid on or before the due date of the return under subsection (3)(a), penalty and interest must be added to the tax due as provided in 15-1-216 from the original due date of the return.~~

(4) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(5) ~~Except as provided in subsection (3)(c), the~~ *The* extension of time for filing a return is not an extension of time for the payment of taxes."

Section 9. Section 15-30-2605, MCA, is amended to read:

"15-30-2605. Revision of return by department — statute of limitations — examination of records and persons. (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.

(2) If a taxpayer does not file a return as required under this chapter, the department may, at any time, audit the taxpayer or estimate the taxable income of the taxpayer from any information in its possession and, based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

(3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be determined by the department within ~~5~~ *3* years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

(4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return that violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due.

(5) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of the person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to the person or persons."

Section 10. Section 15-30-2606, MCA, is amended to read:

"15-30-2606. Tolling of statute of limitations. The running of the statute of limitations provided for under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619, the statute of limitations does not apply until ~~5~~ *3* years from the date the federal changes become final or the amended federal return was filed. If the taxpayer omits from gross income an amount properly includable as gross income and the amount is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does not apply for 2 additional years from the time specified in 15-30-2605."

Section 11. Section 15-30-2607, MCA, is amended to read:

"15-30-2607. Application for revision — appeal. An application for revision may be filed with the department by a taxpayer within ~~5~~ *3* years from the last day prescribed for filing the return as provided in 15-30-2605(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to 15-30-2605(3), the taxpayer may revise the same return until the liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may appeal to the state tax appeal board."

Section 12. Section 15-30-2609, MCA, is amended to read:

"15-30-2609. Credits and refunds — period of limitations. (1) If the department discovers from the examination of a return or upon a claim filed by a

taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-2606 and 15-30-2607, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the tax year of the net operating loss if that period expires later than ~~5~~ *3* years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) (a) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Except as provided in subsection (4)(b), interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimated tax payments, the date of overpayment is the date on which the return for the tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding tax year. Interest does not accrue during any period for which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(i) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(ii) the overpayment results from the carryback of a net operating loss; or

(iii) the amount of interest is less than $1.

(b) Subject to the provisions of subsection (4)(a)(i), if the return is filed after the time prescribed for filing in 15-30-2604, including any extension, interest is payable from the date the return was filed.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable."

Section 13. Section 15-30-2643, MCA, is amended to read:

"15-30-2643. Time limitations for prosecution. A prosecution for an offense under 15-30-2641 must be commenced within ~~5~~ *3* years after the offense is committed."

Section 14. Section 15-30-3003, MCA, is amended to read:

"15-30-3003. (Temporary) Montana farm and ranch risk management account — deposits — exclusion from income. (1) An

individual or a family farm corporation engaged in an eligible agricultural business may create a Montana farm and ranch risk management account, as provided in this part, to use as a risk management tool for the individual's or family farm corporation's agricultural business. The number of risk management accounts that may be created is limited to one for each individual or family farm corporation.

(2) Deposits to the account may be excluded from adjusted gross income as provided in 15-30-2110 in an amount not to exceed the lesser of 20% of the taxpayer's net income attributable to agricultural business included in federal adjusted gross income or $20,000 a year. For the purposes of this section, a taxpayer is considered to have made a deposit to an account if the deposit is made:

(a) during the tax year; or

(b) for a specific tax year if it is made within 3 1/2 months after the close of the tax year.

(3) A deposit not distributed within ~~5~~ *3* years is considered to have been distributed to the taxpayer as provided in 15-30-3005.

(4) A portion of a deposit distributed within 6 months of the date deposited is income in the year for which an exclusion was taken. The taxpayer shall file a return or amended return as necessary to report the income in the appropriate year. (Terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 15. Coordination instruction. If both Senate Bill No. 65 and [this act] are passed and approved and if both contain a section that amends 15-30-2604, then [section 10] of Senate Bill No. 65 amending 15-30-2604 is void.

Section 16. Effective dates. (1) Except as provided in subsection (2), [this act] is effective January 1, 2017.

(2) [Sections 3, 4, 7, 9 through 15, and 17] and this section are effective on passage and approval.

Section 17. Applicability. (1) Except as provided in subsection (2), [this act] applies to penalties assessed against taxes due or fees due for tax periods beginning after December 31, 2016.

(2) [Sections 3, 4, 7, and 9 through 14] apply retroactively, within the meaning of 1-2-109, to tax periods beginning after December 31, 2014.

Section 18. Termination. [Section 15-1-216(7)(a)(i)(A)] terminates December 31, 2017.

Approved April 27, 2015

CHAPTER NO. 309

[HB 434]

AN ACT REVISING THE ASBESTOS CONTROL ACT; REQUIRING A 5-DAY REVIEW PERIOD FOR SMALL ASBESTOS PROJECTS; ESTABLISHING AN ASBESTOS ADVISORY GROUP TO ADVISE THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 75-2-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, in 1989 the Legislature created the "Asbestos Control Act" and allowed for rulemaking with the intent to establish standards and procedures consistent with federal law for accreditation of asbestos-related occupations and control of the work performed by persons in any asbestos-related occupation; and

WHEREAS, people exposed to airborne asbestos fibers suffer significantly increased rates of lung cancer, mesothelioma, and other diseases; and

WHEREAS, to prevent unnecessary public exposure to asbestos fibers it is necessary to regulate and establish criteria for asbestos abatement practices and to require statewide standards for training and accreditation of asbestos workers; and

WHEREAS, most portions of the Asbestos Control Act have not been updated in two decades, and the regulations and the program are in need of evaluation.

Be it enacted by the Legislature of the State of Montana:

Section 1. Asbestos advisory group — members — duties. (1) The department of environmental quality shall convene an asbestos advisory group that represents a broad variety of people with interests in asbestos regulation.

(2) The asbestos advisory group shall advise the department on:

(a) regulatory thresholds for permits and whether a tiered permitting system is appropriate;

(b) the appropriate types of projects and the size of structures subject to permitting;

(c) the appropriate timeframe for asbestos project notification and issuance of permits;

(d) whether a registration program is appropriate for small scale projects;

(e) the scope of the department's enforcement and cleanup authority;

(f) appropriate funding options;

(g) the relationship between federal and state authority over various issues related to asbestos control and methods to clarify conflicts;

(h) options to streamline the permitting process while still protecting public health and safety;

(i) any other issues related to asbestos regulation considered appropriate by the advisory group.

(3) The asbestos advisory group shall complete its work, including issuing recommendations to the department, by December 31, 2016.

Section 2. Small project review requirement. The department shall review a permit application within 5 working days of receipt of a complete application and an appropriate fee for an asbestos project that:

(1) involves more than 10 square feet but less than 160 square feet in surface area;

(2) involves more than 3 linear feet but less than 260 linear feet of pipe; or

(3) involves more than 3 cubic feet but less than 35 cubic feet of volume.

Section 3. Section 75-2-502, MCA, is amended to read:

"75-2-502. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Accreditation" means a certificate issued by the department that permits a person to work in an asbestos-related occupation.

(2) "Asbestos" means asbestiform varieties of chrysotile, amosite, crocidolite, anthophyllite, tremolite, or actinolite.

(3) "Asbestos project" means the encapsulation, enclosure, removal, repair, renovation, placement in new construction, demolition of asbestos in a building or other structure, or the transportation or disposal of asbestos-containing

waste. The term does not include a project that involves less than ~~3~~ *10* square feet in surface area or 3 linear feet of pipe.

(4) "Asbestos-related occupation" means an inspector, management planner, project designer, contractor, supervisor, or worker for an asbestos project.

(5) "Department" means the department of environmental quality provided for in 2-15-3501.

(6) "Person" means an individual, partnership, corporation, sole proprietorship, firm, enterprise, franchise, association, state or municipal agency, political subdivision of the state, or any other entity."

Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 75, chapter 2, part 5, and the provisions of Title 75, chapter 2, part 5, apply to [section 2].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 310

[HB 448]

AN ACT ALLOWING A PERSON ALLEGING A DEPRIVATION OF RIGHTS WHO PREVAILS IN AN ACTION AGAINST THE STATE ENFORCING THE CONSTITUTIONAL RIGHT TO KNOW TO BE AWARDED COSTS AND REASONABLE ATTORNEY FEES; AMENDING SECTION 2-3-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs ~~to plaintiff~~ in certain actions to enforce constitutional right to know. A ~~plaintiff~~ *person alleging a deprivation of rights* who prevails in an action brought in district court to enforce the ~~plaintiff's~~ *person's* rights under Article II, section 9, of the Montana constitution ~~may~~ *may* be awarded costs and reasonable attorney fees."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to proceedings initiated on or after [the effective date of this act].

Approved April 27, 2015

CHAPTER NO. 311

[HB 470]

AN ACT ALLOWING FEES PAID UNDER A GUARANTEED ASSET PROTECTION WAIVER TO BE INCLUDED IN THE PRINCIPAL AMOUNT OF A CONSUMER LOAN; AMENDING SECTION 32-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-5-301, MCA, is amended to read:

"32-5-301. Fees charged to consumers. (1) A licensee may contract for and receive interest on the principal amount of any loan. The interest, excluding the fees authorized in subsections (3) and (4), may not exceed 36% a year.

(2) The following third-party fees may be financed at the borrower's option and included in the principal amount of any loan:

(a) the actual fees paid to a public official or agency of the state for filing, recording, or releasing any instrument securing the loan;

(b) the premium for insurance in lieu of filing or recording any instrument securing the loan to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or releasing any instrument securing the loan;

(c) the premium for any credit insurance;

(d) bona fide fees or charges related to real estate security paid to third parties;

(e) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(f) fees for preparation of a deed, settlement statement, or other documents;

(g) fees for notarizing deeds and other documents;

(h) appraisal fees;

(i) fees for credit reports; and

(j) fees paid to a trustee for release of a trust deed.

(3) (a) If provided for in the contract, a licensee may grant a deferral at any time. A deferral postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled or as previously deferred for a period equal to the agreed-upon deferral period. The deferral period is that period during which an installment is not scheduled to be paid by reason of the deferral.

(b) A licensee may charge an additional fee for each deferral. The fee charged may be the greater of $15 or 5% of the amount currently due, not to exceed $50.

(c) Other fees may not be charged by the lender for any deferrals granted by the lender.

(4) If provided for in the contract, a licensee may charge a fee for any amount past due, whether as a result of a default under the original contract terms or of a default under the terms of an extension agreement. The fee charged may be the greater of $15 or 5% of the amount past due, not to exceed $50. The fee charged for any past-due amount may be charged only once. Other fees may not be charged for any default of the contract by the borrower.

(5) At the borrower's option, a licensee may finance and include in the principal amount of any loan a guaranteed asset protection waiver provided under the Guaranteed Asset Protection Waiver Act as provided in 30-14-151 through 30-14-157.

~~(5)~~*(6)* (a) No other fees or charges may be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. A licensee may not divide into separate parts any contract made for the purpose of or with the effect of obtaining fees in excess of those authorized by this chapter. In addition to other remedies and penalties provided for in this chapter, if any amount in excess of the fees permitted by this chapter is charged, contracted for, or received, the licensee shall forfeit to the borrower a sum that is double the amount that is in excess of the fees authorized by this chapter.

(b) This section does not apply to fees for services rendered in connection with a loan after the loan has been consummated and if the borrower's participation in the services is strictly voluntary."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 312

[HB 491]

AN ACT GENERALLY REVISING THE 24/7 SOBRIETY AND DRUG MONITORING PROGRAM; CLARIFYING THE PURPOSE AND CORE COMPONENTS OF THE SOBRIETY PROGRAM; CLARIFYING ELIGIBILITY FOR PARTICIPATION IN THE SOBRIETY PROGRAM; AMENDING SECTIONS 44-4-1202, 44-4-1203, AND 44-4-1205, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-4-1202, MCA, is amended to read:

"44-4-1202. Purpose — definitions. (1) The legislature declares that driving in Montana upon a way of this state open to the public is a privilege, not a right. A driver who wishes to enjoy the benefits of this privilege shall accept the corresponding responsibilities.

(2) The legislature further declares that the purpose of this part is:

(a) to protect the public health and welfare by reducing the number of people on Montana's highways who drive under the influence of alcohol or dangerous drugs;

(b) to protect the public health and welfare by reducing the number of repeat offenders for crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime; ~~and~~

(c) to strengthen the pretrial and posttrial options available to prosecutors and judges in responding to repeat DUI offenders or other repeat offenders who commit crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime*; and*

(d) to ensure timely and sober participation in judicial proceedings.

(3) As used in this part, the following definitions apply:

(a) "Core components" means those elements of a sobriety program that analysis demonstrates are most likely to account for positive program outcomes.

(b) "Dangerous drug" has the meaning provided in 50-32-101.

(c) "Department" means the department of justice provided for in 2-15-2001.

(d) "Immediate sanction" means a sanction that is applied within minutes of a noncompliant test event.

(e) "Law enforcement agency" means the county sheriff's office or another law enforcement agency designated by the county sheriff's office that is charged with enforcing the sobriety program.

(f) "Sobriety program" or "program" means the 24/7 sobriety and drug monitoring program established in 44-4-1203, which authorizes a court or an agency as defined in 2-15-102, as a condition of bond, sentence, probation, parole, or work permit, to:

(i) require an individual who has been charged with or convicted of a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the

commission of the crime, including but not limited to a second or subsequent offense of driving under the influence of alcohol or dangerous drugs, to abstain from alcohol or dangerous drugs for a period of time; and

(ii) require the individual to be subject to testing to determine the presence of alcohol or dangerous drugs:

(A) twice a day at a central location where immediate sanctions may be applied;

(B) when testing twice a day is impractical, by continuous, remote sensing, or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or

(C) with the concurrence of the department, by an alternate method that is consistent with 44-4-1203.

(g) "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration, and includes any combination of the use of breath testing, drug patch testing, urinalysis testing, saliva testing, continuous remote sensing, or transdermal alcohol monitoring. With the concurrence of the department and consistent with 44-4-1203, alternate body fluids may be approved for testing.

(h) "Timely sanction" means a sanction that is applied as soon as practical following a noncompliant test event."

Section 2. Section 44-4-1203, MCA, is amended to read:

"44-4-1203. Sobriety and drug monitoring program created. (1) There is a statewide 24/7 sobriety and drug monitoring program within the department to be administered by the attorney general.

(2) *(a)* The core components of the sobriety program must include use of a primary testing methodology for the presence of alcohol or dangerous drugs that*:*

(i) best facilitates the ability to apply immediate sanctions for noncompliance*; and*

(ii) is available at an affordable cost.

(b) In cases of hardship or when a sobriety program participant is subject to less-stringent testing requirements, testing methodologies with timely sanctions for noncompliance may be utilized.

(3) The sobriety program must be supported by evidence of effectiveness and satisfy at least two of the following categories:

(a) the program is included in the federal registry of evidence-based programs and practices;

(b) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(c) the program has been documented as effective by informed experts and other sources.

(4) If a law enforcement agency chooses to participate in the sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this part. The department shall also assist entities participating in the program in determining alternatives to incarceration.

(5) (a) If a law enforcement agency participates in the program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law

enforcement agency pursuant to this part, except that the law enforcement agency's designee may not determine whether to participate in the sobriety program.

(b) The law enforcement agency shall establish the testing locations and times for the county but must have at least one testing location and two daily testing times approximately 12 hours apart.

(6) Any efforts by the department to alter or modify the core components of the statewide sobriety program must include a documented strategy for achieving and measuring the effectiveness of the proposed modifications. Before core components may be modified, a pilot program with defined objectives and timelines must be initiated in which measurements of the effectiveness and impact of any proposed modifications to the core components are monitored. The data collected from the pilot program must be assessed by the department, and a determination must be made as to whether the stated goals were achieved and whether the modifications should be formally implemented in the sobriety program.

(7) All alcohol or drug testing ordered by a court must utilize the data management technology plan provided for in 44-4-1204(4).

(8) Alcohol or drug testing required by the department of corrections pursuant to this part must utilize the data management technology plan provided for in 44-4-1204(4)."

Section 3. Section 44-4-1205, MCA, is amended to read:

"44-4-1205. Authority of court to order participation in sobriety and drug monitoring program — probationary license — imposition of conditions. (1) (a) Any court or agency utilizing the sobriety program may stay any sanctions that it imposed against an offender while the offender is in compliance with the sobriety program.

(b) If an individual convicted of the offense of aggravated driving under the influence in violation of 61-8-465, a second or subsequent offense of driving under the influence in violation of 61-8-401, or a second or subsequent offense of driving with excessive alcohol concentration in violation of 61-8-406 has been required to participate in the sobriety program, the court may, upon the individual's successful completion of a court-approved chemical dependency treatment program and proof of insurance pursuant to 61-6-301, notify the department that as a participant in the sobriety program, the individual is eligible for a restricted probationary driver's license pursuant to 61-2-302, notwithstanding the requirements of 61-5-208 that an individual is required to complete a certain portion of a suspension period before a probationary license may be issued.

(c) If the individual fails to comply with the requirements of the sobriety program, the court may notify the department of the individual's noncompliance and direct the department to withdraw the individual's probationary driver's license and reinstate the remainder of the suspension period provided in 61-5-208.

(2) Upon an offender's participation in the sobriety program and payment of the fees required by 44-4-1204:

(a) the court may condition any bond or pretrial release for an individual charged with a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

(b) the court may condition the granting of a suspended execution of sentence or probation for an individual convicted of a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

(c) the board of pardons and parole may condition parole for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime; or

(d) the department of corrections may establish conditions for conditional release for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime.

(3) An entity referred to in subsections (2)(a) through (2)(d) may condition any bond or pretrial release, suspended execution of sentence, probation, parole, or conditional release as provided in those subsections for an individual charged with or convicted of a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute.

(4) A person is eligible to participate in and a court may compel a person to participate in a sobriety program if the person:

(a) is charged with violating 61-8-465; or

(b) (i) is charged with or has been convicted of violating 61-8-401 or 61-8-406; and

(ii) at any time in the 10 years preceding the date of the current charge or conviction:

(A) has been convicted in this state of a violation of 61-8-401, 61-8-406, or 61-8-465;

(B) has been convicted of a violation of a statute or regulation in another state or on a federally recognized Indian reservation that is similar to 61-8-401, 61-8-406, or 61-8-465; or

(C) has forfeited bail or collateral deposited to secure the defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation for a charge of violating 61-8-401, 61-8-406, 61-8-465, or a similar statute or regulation and the forfeiture has not been vacated.

(5) As used in this section, "conviction" has the meaning provided in 45-2-101."

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2(7) and (8)] is effective October 1, 2015.

Approved April 27, 2015

CHAPTER NO. 313

[HB 516]

AN ACT REVISING LAWS RELATING TO POSTCONVICTION DNA TESTING; AUTHORIZING A COURT TO ORDER THE STATE TO PRODUCE OR ASSIST IN THE LOCATION OF CERTAIN EVIDENCE; AUTHORIZING A COURT TO ORDER THE PRODUCTION OF CERTAIN LABORATORY DOCUMENTS RELATING TO THE ANALYSIS OF EVIDENCE; REVISING POSTCONVICTION DNA PROCEEDINGS WHEN THE TESTS RESULTS ARE FAVORABLE TO THE PETITIONER AND OTHER CONDITIONS ARE SATISFIED; AUTHORIZING A COURT TO ORDER A DNA PROFILE TO BE SUBMITTED TO CERTAIN DNA DATABASES; AUTHORIZING VICTIM SERVICES IN CERTAIN CASES; AMENDING SECTION 46-21-110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-21-110, MCA, is amended to read:

"46-21-110. Petition for DNA testing. (1) A person convicted of a felony ~~who is serving a term of incarceration~~ may file a written petition for performance of DNA testing, as defined in 44-6-101, in the court that entered the judgment of conviction. The petition must include the petitioner's statement that the petitioner was not the perpetrator of the felony that resulted in the conviction and that DNA testing is relevant to the assertion of innocence. The petition must be verified by the petitioner under penalty of perjury and must:

(a) explain why the identity of the perpetrator of the felony was or should have been a significant issue in the case;

(b) present a prima facie case that the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, degraded, contaminated, altered, or replaced in any material aspect;

(c) explain, in light of all the evidence, how the requested testing would establish the petitioner's innocence of the felony;

(d) make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought;

(e) reveal the results of any DNA or other known biological testing that was previously conducted by the prosecution or defense; and

(f) state whether a petition was previously filed under this section and the results of the proceeding.

(2) If the petition does not contain the information required in subsection (1), the court shall return the petition to the petitioner and advise the petitioner that the matter cannot be considered without the missing information.

(3) If subsection (1) is complied with, the court shall order a copy of the petition to be served on the attorney general, the county attorney ~~in~~ *of* the county of conviction, and, if known, the laboratory or government agency holding the evidence sought to be tested. The court shall order that any responses to the petition must be filed within a reasonable time after the date of service under this subsection.

(4) The court may order a hearing on the petition. The hearing must be before the judge who conducted the trial, unless the court determines that that judge is unavailable. Upon request of any party, the court may in the interest of justice order the petitioner to be present at the hearing. The court may consider evidence whether or not it was introduced at the trial.

(5) The court shall grant the petition if it determines that the petition is not made for the purpose of delay and that:

(a) the evidence *sought* to be tested~~:~~

~~(i) was secured in relation to the trial that resulted in the conviction;~~

~~(ii) is available; and~~

~~(iii) is in a condition that would permit the requested testing;~~

~~(b) the evidence to be tested~~ *is available and* has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, degraded, contaminated, altered, or replaced in any material aspect;

~~(c)~~*(b)* the identity of the perpetrator of the felony was or should have been a significant issue in the case;

~~(d)~~*(c)* the petitioner has made a ~~prima facie~~ showing that the evidence sought to be tested ~~is~~ *has a reasonable probability, assuming favorable results, of being* material to the question of whether the petitioner was the perpetrator of the felony that resulted in the conviction;

~~(e)~~*(d)* ~~the requested testing results would establish, in light of all the evidence, whether the petitioner was the perpetrator of the felony that resulted in the conviction~~ *in light of all the evidence, there is a reasonable probability that the petitioner would not have been convicted if favorable results had been obtained through DNA testing at the time of the original prosecution*; and

~~(f)~~*(e)* the evidence sought to be tested was not previously tested or was tested previously but another test would provide results that are reasonably more discriminating and probative on the question of whether the petitioner was the perpetrator of the felony that resulted in the conviction or would have a reasonable probability of contradicting the prior test results.

(6) If the court grants the petition, the court shall identify the evidence to be tested. The testing must be conducted by a laboratory mutually agreed upon by the petitioner, the attorney general, and the county attorney ~~in~~ *of* the county of conviction. If the parties cannot agree on a laboratory, the court shall direct a laboratory of the court's choice to conduct the testing. At the request of the attorney general or the county attorney of the county of conviction, the court shall order the evidence submitted to an additional laboratory designated by the requester for additional testing. The court shall impose reasonable conditions on the testing designed to protect the parties' interests in the integrity of the evidence and the testing process.

(7) After a petition has been filed under this section, the court may order:

(a) the state to locate and provide the petitioner with any documents, notes, logs, or reports relating to physical evidence collected in connection with the case or otherwise assist the petitioner in locating biological evidence that the state contends has been lost or destroyed;

(b) the state to take reasonable measures to locate biological evidence that may be in its custody;

(c) the state to assist the petitioner in locating evidence that may be in the custody of a public or private hospital or laboratory or other facility; and

(d) the production of original documents from the laboratory showing the results of any analysis conducted on any items or biological material collected as evidence from the time the evidence was received to the time of disposition. This includes but is not limited to the underlying data and laboratory notes prepared in connection with DNA tests, presumptive tests for the presence of biological material, serological tests, and analysis for trace evidence. All items from the

requested case file must be made available to the petitioner, including digital files and photographs.

(8) The provisions of subsection (7) do not limit a court from ordering the production of any other relevant evidence.

~~(7)~~*(9)* Testing ordered by the court must be conducted as soon as practicable, and if the court finds that a gross miscarriage of justice would otherwise occur and that it is necessary in the interests of justice to give priority to the DNA testing, the court shall order a laboratory, if located in this state, to give the testing priority over any other pending casework of the laboratory.

~~(8)~~*(10)* The test results must be fully disclosed to the parties.

~~(9)~~*(11)* If the test results are inconclusive, the court may order further appropriate testing or terminate the proceeding. If the test results ~~are not favorable to~~ *inculpate* the petitioner, the court shall:

(a) notify the board of pardons and parole;

(b) order the petitioner's test sample to be included in the DNA identification index established under 44-6-102 and the federal combined DNA index system (CODIS) offender database;

(c) notify any victim and the family of the victim that the test results were not favorable to the petitioner; and

(d) terminate the proceeding.

~~(10)~~*(12)* If the test results are favorable to the petitioner, the court shall order a hearing *to determine whether there is a reasonable probability that a different outcome at trial could have been reached* and after the hearing shall make appropriate orders ~~pursuant to applicable statutes regarding postconviction proceedings~~ *to serve the interests of justice, including an order that:*

(a) vacates and sets aside the judgment;

(b) discharges the defendant if the defendant is in custody; or

(c) resentences the defendant.

(13) The court may order a DNA profile to be submitted to the DNA identification index established under 44-6-102 and the federal combined DNA index system (CODIS) offender database to determine whether it matches a DNA profile of a known individual or a DNA profile from an unsolved crime. The DNA profile may be obtained from probative biological material from crime scene evidence.

~~(11)~~*(14)* The court shall order a petitioner who is able to do so to pay the costs of testing. If the petitioner is unable to pay, the court shall order the state to pay the costs of testing. The court shall order additional testing requested by the attorney general or the county attorney of the county of conviction to be paid for by the state.

~~(12)~~*(15)* The remedy provided by this section is in addition to any remedy available under part 1 of this chapter.

(16) When a motion is filed to vacate a conviction based on DNA results that are favorable to the petitioner, the state may provide victim services to the victim of the crime that is being reinvestigated during the reinvestigation, during the court proceedings, and, upon consultation with the victim or a victim advocate, after final adjudication of the case."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 314

[HB 523]

AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE TRANSFER OF OWNERSHIP OF IMPROVEMENTS IN A RURAL IMPROVEMENT DISTRICT UPON RECEIPT OF A PETITION; REQUIRING THE PETITION TO INCLUDE CERTAIN INFORMATION; REQUIRING NOTICE OF A PUBLIC HEARING ON THE PROPOSED TRANSFER; REQUIRING THAT ALL RESPONSIBILITY FOR THE OPERATION AND MAINTENANCE OF THE IMPROVEMENTS AND ALL DEBT AND ASSETS OF THE DISTRICT BE TRANSFERRED IF THE TRANSFER IS APPROVED; AND AMENDING SECTION 7-8-2211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfer of ownership of improvements — petition — hearing — effect of transfer. (1) Subject to the provisions of this section, a board of county commissioners may transfer the ownership of the improvements in a district to the owners of property in a district.

(2) (a) Upon receipt of a petition signed by at least 66% of the owners of real property in a district requesting that the ownership of the improvements be transferred, the board shall, after providing public notice pursuant to 7-1-2121, hold a public hearing.

(b) The petition must include a description of the improvements that the petitioners are requesting be transferred, the reasons for the request, and a statement acknowledging that if the transfer occurs, the property owners assume responsibility for the operation and maintenance of the improvements.

(3) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the district.

(4) At the public hearing, the board shall accept comment regarding the proposed transfer.

(5) Within 60 days after the hearing, the board shall decide whether to transfer ownership of the improvements to the property owners or to continue the operation of the district and maintenance and control of the improvements as provided in this part.

(6) (a) If the board decides to transfer ownership of the improvements, the property owners in the district assume ownership and responsibility for the operation and maintenance of the improvements and the district ceases to exist.

(b) Any debts owed by or assets credited to the district become debts and assets of the property owners on the date that the transfer is approved by the board.

Section 2. Section 7-8-2211, MCA, is amended to read:

"7-8-2211. Authorization to sell and exchange county property. (1) Boards of county commissioners of this state have the power to sell, trade, or exchange any real or personal property, however acquired, belonging to the county that is not necessary to the conduct of county business or the preservation of its property.

(2) Whenever a county purchases equipment, as provided in 7-5-2301 and 7-5-2303 through 7-5-2308, county equipment that is not necessary to the conduct of the county business may be traded in as part of the purchase price after appraisal, as provided in 7-8-2214, or may be sold at public auction, as provided in 7-8-2212, in the discretion of the board.

(3) Any sale, trade, or exchange of real or personal property must be accomplished under the provisions of this title. In an exchange of real property, the properties must be appraised, and an exchange of county property may not be made unless property received in exchange for the county property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of title for property having the lesser value.

(4) If a county owns property containing a historically significant building or monument, the county may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:

(a) requires the property to be preserved in its present or restored state upon any subsequent transfer; and

(b) provides for the reversion of the property to the county for noncompliance with conditions attached to the transfer.

(5) A county may authorize the transfer of ownership of rural improvement district improvements as provided in [section 1]."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 12, part 21, and the provisions of Title 7, chapter 12, part 21, apply to [section 1].

Approved April 27, 2015

CHAPTER NO. 315

[HB 538]

AN ACT ALLOWING A MONTANA EMPLOYER TO OBTAIN WORKERS' COMPENSATION COVERAGE FROM NORTH DAKOTA UNDER CERTAIN CONDITIONS FOR ITS MONTANA WORKERS SOLELY WORKING IN NORTH DAKOTA; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Employer option for extraterritorial coverage. (1) Notwithstanding 39-71-118(8)(a), an employee of an employer in this state who is employed by the employer to work solely in North Dakota, and who is required by the laws of that state to be covered for workers' compensation purposes while working in that state, is not considered to be an employee in this state covered under Title 39, chapter 71, during any time that the employer maintains workers' compensation coverage for the employee in North Dakota. For purposes of this section, "work solely in North Dakota" means the employee does not perform job duties in Montana and coverage is required by the state of North Dakota. Travel that is commuting to and from a job site in North Dakota from a location in Montana does not constitute performing job duties in Montana even if the employer pays for all or a portion of the costs of travel or if the worker is paid for the travel time.

(2) A plan No. 1, 2, or 3 insurer providing coverage to the employer under this chapter may require proof of coverage in North Dakota and records of work in North Dakota. An insurer may use a verification of employment form, developed by the department, to request an attestation by the employer regarding the employees working solely in North Dakota.

(3) (a) This section does not exempt an employee from coverage under this chapter when the employee's usual job duties begin in this state and the employee is otherwise covered under 39-71-407(4)(a).

(b) This section exempts an employee from coverage under this chapter when the employee is engaged in travel while commuting as provided in subsection (1).

Section 2. Section 39-71-401, MCA, is amended to read:

"39-71-401. Employments covered and exemptions — elections — notice. (1) Except as provided in subsection (2), the Workers' Compensation Act applies to all employers and to all employees. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3*, unless the provisions of [section 1] apply*. Each employee whose employer is bound by the Workers' Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows an election, the Workers' Compensation Act does not apply to any of the following:

(a) household or domestic employment;

(b) casual employment;

(c) employment of a dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code;

(d) employment of sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company, except as provided in subsection (3);

(e) employment of a real estate, securities, or insurance salesperson paid solely by commission and without a guarantee of minimum earnings;

(f) employment as a direct seller as defined by 26 U.S.C. 3508;

(g) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;

(h) employment of a person performing services in return for aid or sustenance only, except employment of a volunteer under 67-2-105;

(i) employment with a railroad engaged in interstate commerce, except that railroad construction work is included in and subject to the provisions of this chapter;

(j) employment as an official, including a timer, referee, umpire, or judge, at an amateur athletic event;

(k) employment of a person performing services as a newspaper carrier or freelance correspondent if the person performing the services or a parent or guardian of the person performing the services in the case of a minor has acknowledged in writing that the person performing the services and the services are not covered. As used in this subsection (2)(k):

(i) "freelance correspondent" means a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) "newspaper carrier":

(A) means a person who provides a newspaper with the service of delivering newspapers singly or in bundles; and

(B) does not include an employee of the paper who, incidentally to the employee's main duties, carries or delivers papers.

(l) cosmetologist's services and barber's services as referred to in 39-51-204(1)(e);

(m) a person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the exterior boundaries of an Indian reservation;

(n) employment of a jockey who is performing under a license issued by the board of horseracing from the time that the jockey reports to the scale room prior to a race through the time that the jockey is weighed out after a race if the jockey has acknowledged in writing, as a condition of licensing by the board of horseracing, that the jockey is not covered under the Workers' Compensation Act while performing services as a jockey;

(o) employment of a trainer, assistant trainer, exercise person, or pony person who is performing services under a license issued by the board of horseracing while on the grounds of a licensed race meet;

(p) employment of an employer's spouse for whom an exemption based on marital status may be claimed by the employer under 26 U.S.C. 7703;

(q) a person who performs services as a petroleum land professional. As used in this subsection, a "petroleum land professional" is a person who:

(i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in negotiating a business agreement for the exploration or development of minerals;

(ii) is paid for services that are directly related to the completion of a contracted specific task rather than on an hourly wage basis; and

(iii) performs all services as an independent contractor pursuant to a written contract.

(r) an officer of a quasi-public or a private corporation or, except as provided in subsection (3), a manager of a manager-managed limited liability company who qualifies under one or more of the following provisions:

(i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;

(ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;

(iii) the officer or manager either:

(A) owns 20% or more of the number of shares of stock in the corporation or owns 20% or more of the limited liability company; or

(B) owns less than 20% of the number of shares of stock in the corporation or limited liability company if the officer's or manager's shares when aggregated with the shares owned by a person or persons listed in subsection (2)(r)(iv) total 20% or more of the number of shares in the corporation or limited liability company; or

(iv) the officer or manager is the spouse, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets the requirements of subsection (2)(r)(iii)(A) or (2)(r)(iii)(B);

(s) a person who is an officer or a manager of a ditch company as defined in 27-1-731;

(t) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;

(u) service performed to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian;

(v) employment of a person performing the services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meets the definition of a broker or freight forwarder, as provided in 49 U.S.C. 13102;

(w) employment of a person who is not an employee or worker in this state as defined in 39-71-118(8);

(x) employment of a person who is working under an independent contractor exemption certificate;

(y) employment of an athlete by or on a team or sports club engaged in a contact sport. As used in this subsection, "contact sport" means a sport that includes significant physical contact between the athletes involved. Contact sports include but are not limited to football, hockey, roller derby, rugby, lacrosse, wrestling, and boxing.

(z) a musician performing under a written contract.

(3) (a) (i) A person who regularly and customarily performs services at locations other than the person's own fixed business location shall elect to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3 unless the person has waived the rights and benefits of the Workers' Compensation Act by obtaining an independent contractor exemption certificate from the department pursuant to 39-71-417.

(ii) Application fees or renewal fees for independent contractor exemption certificates must be deposited in the state special revenue account established in 39-9-206 and must be used to offset the certification administration costs.

(b) A person who holds an independent contractor exemption certificate may purchase a workers' compensation insurance policy and with the insurer's permission elect coverage for the certificate holder.

(c) For the purposes of this subsection (3), "person" means:

(i) a sole proprietor;

(ii) a working member of a partnership;

(iii) a working member of a limited liability partnership;

(iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

(4) (a) A corporation or a manager-managed limited liability company shall provide coverage for its employees under the provisions of compensation plan No. 1, 2, or 3. A quasi-public corporation, a private corporation, or a manager-managed limited liability company may elect coverage for its corporate officers or managers, who are otherwise exempt under subsection (2), by giving a written notice in the following manner:

(i) if the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering the notice to the board of directors of the corporation or

to the management organization of the manager-managed limited liability company; or

(ii) if the employer has elected to be bound by the provisions of compensation plan No. 2 or 3, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company and to the insurer.

(b) If the employer changes plans or insurers, the employer's previous election is not effective and the employer shall again serve notice to its insurer and to its board of directors or the management organization of the manager-managed limited liability company if the employer elects to be bound.

(5) The appointment or election of an employee as an officer of a corporation, a partner in a partnership, a partner in a limited liability partnership, or a member in or a manager of a limited liability company for the purpose of exempting the employee from coverage under this chapter does not entitle the officer, partner, member, or manager to exemption from coverage.

(6) Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of workers' compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over the place of business or property for the purpose of carrying on the employer's usual trade, business, or occupation. The sign must be provided by the department, distributed through insurers or directly by the department, and posted by employers in accordance with rules adopted by the department. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a $50 fine for each citation."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 71, part 4, and the provisions of Title 39, chapter 71, part 4, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2015.

Section 5. Termination. [This act] terminates June 30, 2019.

Approved April 27, 2015

CHAPTER NO. 316

[HB 542]

AN ACT EXPANDING THE DUTIES OF THE TOURISM ADVISORY COUNCIL TO INCLUDE PROMOTION OF REGIONAL HISTORY MUSEUMS; AMENDING SECTION 2-15-1816, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1816, MCA, is amended to read:

"2-15-1816. Tourism advisory council. (1) There is created a tourism advisory council.

(2) The council is composed of not less than 12 members appointed by the governor from Montana's private sector travel industry and includes at least one member from Indian tribal governments, with representation from each

tourism region initially established by executive order of the governor and as may be modified by the council under subsection (5).

(3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion of the governor. ~~The governor shall designate four of the initial members to serve 1-year terms and four of the initial members to serve 2-year terms.~~

(4) The council shall:

(a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion and to nonprofit convention and visitors bureaus in accordance with Title 15, chapter 65, part 1, and this section;

(b) advise the department of commerce relative to tourism promotion;

(c) advise the governor on significant matters relative to Montana's travel industry;

(d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;

(e) direct the university system regarding Montana travel research;

(f) approve all travel research programs prior to their being undertaken; ~~and~~

(g) encourage regional nonprofit tourism corporations to promote tourist activities on Indian reservations in their regions*;*

(h) encourage regional nonprofit tourism corporations and nonprofit convention and visitors bureaus receiving money under subsection (4)(a) to promote public and nonprofit history museums in their regions; and

(i) urge the department of transportation to include museums recognized by the museums association of Montana when it updates and publishes the state maps.

(5) The council may modify the tourism regions established by executive order of the governor.

(6) The department of commerce shall adopt ~~such~~ rules ~~as may be necessary~~ to implement and administer Title 15, chapter 65, part 1, and this section."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 317

[HB 550]

AN ACT REVISING AND UPDATING LAWS RELATED TO CREDIT UNIONS; REQUIRING A SUPERVISORY COMMITTEE; DEFINING TYPES OF "SHARES"; CLARIFYING MERGER REQUIREMENTS; ALLOWING CREDIT UNIONS TO HOLD FUNDS FOR HEALTH SAVINGS ACCOUNTS OR MEDICAL CARE SAVINGS ACCOUNTS; ALLOWING INVESTMENTS IN CERTAIN INSTRUMENTS AND DEPOSITS; PROVIDING A TIMEFRAME FOR FILLING VACANCIES ON BOARDS OF DIRECTORS AND REVISING OTHER TIMEFRAMES FOR CONSISTENCY; ALLOWING EMPLOYEES FAVORABLE LOAN RATES; REVISING ACCOUNT VERIFICATION REQUIREMENTS; EXPANDING RULEMAKING

AUTHORITY; AMENDING SECTIONS 32-3-102, 32-3-301, 32-3-321, 32-3-322, 32-3-401, 32-3-403, 32-3-405, 32-3-406, 32-3-416, 32-3-417, 32-3-418, 32-3-608, AND 32-3-701, MCA; AND REPEALING SECTIONS 32-3-413, 32-3-414, 32-3-415, AND 32-3-601, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-3-102, MCA, is amended to read:

"32-3-102. ~~Definition and purposes~~ *Purposes — definitions.* *(1)* ~~A~~ *The purposes of a* credit union ~~is a cooperative, nonprofit association, incorporated under this chapter for the purposes of encouraging~~ *are to:*

(a) encourage thrift among its members~~, creating~~*;*

(b) create a source of credit at a fair and reasonable rate of interest~~, and providing~~*; and*

(c) provide an opportunity for ~~its~~ *the credit union's* members to use and control their own money in order to improve their economic and social condition.

(2) For the purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Credit union" means a cooperative, nonprofit association incorporated under the laws of this state pursuant to this chapter for the purposes described in subsection (1).

(b) "Immediate family" means a spouse, a child, a sibling, a parent, a grandparent, or a grandchild and includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(c) "Membership shares" means a fee paid to the credit union to be a member. The fee is held by the credit union and may be invested by the credit union. The fee must be set in the bylaws of the credit union.

(d) "Official" means a member of the board of directors, supervisory committee, or credit committee of the credit union and includes individuals elected by the board of directors to serve as executive officers described in 32-3-408.

(e) "Shares" means a balance of funds, minus membership shares, held by a credit union and established in accordance with standards specified by the credit union. The term includes general references to shares as well as share accounts, share certificates, share draft accounts, custodial accounts, individual retirement accounts, payable on death accounts, trust accounts, money market accounts, share checking accounts, and business share accounts."

Section 2. Section 32-3-301, MCA, is amended to read:

"32-3-301. Organization procedure. (1) Any seven or more residents of this state who are of legal age and who have a common bond, as described in 32-3-304, may organize a credit union and become charter members of the credit union by complying with this section.

(2) The subscribers shall execute~~, in duplicate,~~ articles of incorporation that conform to the applicable Montana corporation law and shall agree to the terms of the articles. The articles must state:

(a) the name, which must include the words "credit union" and which must conform with the provisions of 32-3-103, and the location where the proposed credit union is to have its principal place of business;

(b) that the existence of the credit union is perpetual;

(c) the par value of the shares of the credit union, which must be in $5 multiples of not less than $5 or more than ~~$25~~ *$50*;

(d) that the credit union is organized under this chapter for the purposes set forth in the articles;

(e) the names and addresses of the subscribers to the articles of incorporation and the value of shares subscribed to by each, which may be not less than $5; and

(f) that the credit union may exercise incidental powers that are necessary or requisite to enable it to carry on effectively the business for which it is incorporated and those powers that are inherent in the credit union as a legal entity.

(3) The subscribers shall prepare and adopt bylaws for the general government of the credit union, consistent with this chapter, and ~~execute~~ *forward* the bylaws ~~in duplicate~~ *as provided in subsection (5)*.

(4) The subscribers shall select at least five qualified persons who agree to serve on the board of directors and at least three qualified persons who agree to serve on the supervisory committee ~~if the bylaws provide for a supervisory committee~~. A signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, must be executed by the parties. This agreement must be submitted to the department of administration.

(5) *(a)* The subscribers shall forward the articles of incorporation and the bylaws to the department. The department may issue a certificate of approval if the articles and the bylaws are in conformity with this chapter and if the department is satisfied that the proposed ~~field of~~ operation is favorable to the success of the credit union and that the standing of the proposed organizers gives assurance that the credit union's affairs will be properly administered. The department shall return to the applicants or their representatives ~~a~~ *an approved* copy of the bylaws and the articles, which must be preserved in the permanent files of the credit union*, or provide a written reason if the application is denied*. ~~The application must be acted upon within 30 days.~~

(b) The articles of incorporation must be filed with the secretary of state who, upon payment of the fees for filing the articles, shall issue a certificate of incorporation.

(6) The subscribers for a credit union charter may not transact any business until formal approval of the charter has been received.

(7) If the department denies a certificate of approval, the subscribers may request a hearing under the Montana Administrative Procedure Act*, Title 2, chapter 4*."

Section 3. Section 32-3-321, MCA, is amended to read:

"32-3-321. Liquidation. (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

(2) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily and directing that the question of liquidation be submitted to the members.

(3) Within ~~10~~ *14* days after the board of directors decides to submit the question of liquidation to the members, the presiding officer of the board shall notify the department of administration in writing, setting forth the reasons for the proposed action and a plan for liquidation. Within ~~10~~ *14* days after the members act on the question of liquidation, the presiding officer of the board shall notify the department in writing as to whether or not the members approved the proposed liquidation.

(4) Depending on the credit union's circumstances, a *proposed* liquidation plan may or may not require ~~the~~ *the* suspension of payment ~~on shares~~ *on shares*, withdrawal ~~of shares~~ *of shares*, transfer ~~of shares~~ *of shares* to loans and interest, investments of any kind, ~~new~~ loans, or other similar financial transactions ~~pending action by members on the proposal to liquidate~~. On approval ~~by the members~~ of the proposal *by the members*, all business transactions must be permanently discontinued. Necessary expenses of operation must continue to be paid on authorization of the liquidating agent or committee during the period of liquidation.

(5) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-thirds majority of the members present at a regular or special meeting of the members is required. If authorization for liquidation is to be obtained at a meeting of the members, notice in writing must be given to each member~~, by first-class mail,~~ at least ~~10~~ *14* days prior to the meeting.

(6) If liquidation is approved, the board of directors shall appoint a liquidating agent or committee for the purpose of conserving and collecting assets, closing the affairs of the credit union, and distributing the assets as required by this chapter.

(7) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business ~~and~~. *The liquidating credit union* may sue and be sued for the purpose of enforcing debts and obligations until its affairs are fully adjusted.

(8) The liquidating agent or committee shall distribute the assets of the credit union or the proceeds of any disposition of the assets in the sequence described in 32-3-205(6).

(9) As soon as the liquidating agent or committee determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, the liquidating agent or committee shall execute a certificate of dissolution on a form prescribed by the department. The form, together with all pertinent ~~books and~~ records of the liquidating credit union, must be filed with the department and the secretary of state. Upon filing with both entities, the credit union is dissolved.

(10) If the department determines that the liquidating agent or committee has failed to make reasonable progress in the liquidating of the credit union's affairs and distribution of its assets or has violated a provision of this chapter, the department may issue a cease and desist order against the liquidating agent or committee and appoint a new liquidating agent to complete the liquidation under the department's direction and control. The department shall fill any vacancy caused by the resignation, death, illness, removal, desertion, or incapacity to function of the liquidating agent."

Section 4. Section 32-3-322, MCA, is amended to read:

"32-3-322. Merger. (1) Any credit union may, with the approval of the department of administration, merge with another credit union under the existing charter of the other credit union, pursuant to any plan agreed upon by the majority of ~~each~~ *the* board of directors of each credit union joining in the merger and approved by the affirmative vote of a majority of the *voting* members of the merging credit union ~~present at a meeting of its members called for that purpose~~.

(2) After agreement by each board of directors and approval by the members of the merging credit union, the president and secretary of the credit union shall execute a certificate of merger, which must set forth all of the following:

(a) the time and place of the meeting of each board of directors at which the plan was agreed upon;

(b) the vote in favor of the adoption of the plan;

(c) a copy of the resolution or other action by which the plan was agreed upon;

(d) the time and place of the meeting of the members at which the plan agreed upon was approved; and

(e) the vote by which the plan was approved by the members.

(3) The certificate and a copy of the *agreed-upon* plan of merger ~~agreed upon~~ must be forwarded to the department, certified by the department, and returned to both credit unions within 30 days. A copy of the certificate of merger ~~and~~*, the* certified plan*, and the articles of merger* must be filed with the secretary of state by the surviving credit union.

(4) Upon return of the certificate from the department, all property rights and members' interest of the merged credit union vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union are considered to have been assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges of the members of the merged credit union remain intact.

(5) This section must be construed, whenever possible, to permit a credit union chartered under any other law to merge with one chartered under this chapter or to permit one chartered under this chapter to merge with one chartered under any other law."

Section 5. Section 32-3-401, MCA, is amended to read:

"32-3-401. General powers. A credit union may:

(1) make contracts as provided for in this chapter;

(2) sue and be sued;

(3) adopt and use a common seal and alter the seal;

(4) acquire, lease, hold, and dispose of property, either in whole or in part, necessary or incidental to its operations;

(5) at the discretion of the board of directors, require the payment of an entrance fee or annual membership fee, or both, of any person admitted to membership;

(6) receive savings from its members in the form of shares or special-purpose thrift accounts;

(7) lend its funds to its members as ~~hereinafter~~ provided *in this chapter*;

(8) borrow from any source up to 50% of total assets, after deduction of the notes payable account;

(9) discount and sell any eligible obligations, subject to rules prescribed by the department of administration;

(10) sell all or substantially all of its assets or purchase all or substantially all of the assets of another credit union, subject to the approval of the department;

(11) invest surplus funds as provided in this chapter;

(12) make deposits in legally chartered banks, savings banks, *cooperative banks,* building and loan associations, savings and loan associations, trust companies, and ~~central type~~ *corporate* credit ~~union organizations~~ *unions*;

(13) assess charges to members in accordance with the bylaws for failure to meet promptly their obligations to the credit union;

(14) hold membership in other credit unions organized under this chapter or other laws and in other associations and organizations composed of credit unions;

(15) declare dividends and pay interest refunds to borrowers as provided in this chapter;

(16) collect, receive, and disburse money in connection with the sale of negotiable checks, money orders, and other money type instruments and for ~~such~~ other purposes ~~as may~~ *that* provide benefit or convenience to its members and charge a reasonable fee for the services;

(17) perform tasks and missions that are requested by the federal government or this state or any agency or political subdivision of the federal government or this state, ~~when~~ *if* approved by the board of directors and *if* not inconsistent with this chapter;

(18) contribute to, support, or participate in any nonprofit service facility whose services will benefit the credit union or its membership, subject to regulations prescribed by the department;

(19) make donations or contributions to any civic, charitable, or community organizations as authorized by the board of directors, subject to regulations prescribed by the department;

(20) purchase or make available insurance for its directors, officers, agents, employees, and members;

(21) act as custodian or trustee of individual retirement accounts, as custodian or trustee of pension funds of self-employed individuals or of the sponsor of the credit union, or as custodian or trustee under any other pension or profit-sharing plan if the funds of the accounts are invested in shares of the credit union;

(22) act as custodian or trustee for medical care savings accounts as provided in 15-61-204 or health savings accounts if qualified as provided in 26 CFR 1.408-2; or

~~(22)~~*(23)* act as fiscal agent for and receive deposits from the federal government, this state, or any agency or political subdivision of the federal government or this state."

Section 6. Section 32-3-403, MCA, is amended to read:

"32-3-403. Election or appointment of officials. (1) The credit union must be directed by a board, consisting of an odd number of at least five directors, to be elected at the annual membership meeting by and from the members. All members of the board shall hold office for terms that the bylaws provide.

(2) The board of directors shall appoint a supervisory committee of ~~not less than~~ *at least* three members ~~at~~ *during* the ~~organization~~ *organizational* meeting ~~and~~. *Subsequent appointments must be* within 30 days ~~following~~ *after* each annual meeting of the members for terms that the bylaws provide. ~~However, the bylaws of the credit union may provide that the supervisory committee members are elected for terms that the bylaws provide by the members of the credit union at the annual meeting of the members or may provide that the~~

~~credit union may not have a supervisory committee. If the~~ *The* bylaws *may* provide that *the board of directors of* the credit union ~~may not have a~~ *serves as the* supervisory committee~~, the~~. *The* duties and powers of the supervisory committee~~, as described in 32-3-417 and 32-3-418(1), are the responsibility of the board of directors~~ *must be established by the department of administration by rule*.

(3) ~~As provided in the bylaws, the board of directors shall appoint or the members shall elect a credit committee, consisting of an odd number of at least three members, for terms that the bylaws provide. In lieu of a credit committee, the bylaws may provide that the board of directors shall appoint a credit manager.~~ *The bylaws must provide for either:*

(a) a credit committee, to be either appointed by the board of directors or elected by the members; or

(b) a credit manager, to be appointed by the board of directors.

(4) If the bylaws provide for a credit committee, the committee must consist of an odd number of at least three members, who shall serve for terms that the bylaws provide. The bylaws must specify the number of members of the credit committee and the number of credit committee members needed for a quorum."

Section 7. Section 32-3-405, MCA, is amended to read:

"32-3-405. Vacancies. *(1)* The board of directors shall fill any vacancies occurring in the board *within 60 days. An individual appointed to fill a vacancy shall serve* until successors elected at the next annual meeting have qualified *or as provided in the bylaws*.

(2) The board shall also fill vacancies in the credit and supervisory committees *within 60 days or as provided in the bylaws*."

Section 8. Section 32-3-406, MCA, is amended to read:

"32-3-406. Compensation of officials. *(1)* An ~~officer, director, or committee member~~ *official of the credit union*, other than the treasurer~~, a credit manager,~~ or ~~a loan officer~~ *an employee,* may not be compensated for service in that position~~, but~~.

(2) For the purposes of this section, the following payments are allowed and are not considered compensation:

(a) necessary expenses incidental to the performance of official business of the credit union; or

(b) reasonable life, health, accident, and similar insurance protection for ~~a director or committee member may not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of the business~~ *an official*."

Section 9. Section 32-3-416, MCA, is amended to read:

"32-3-416. Credit *committee or credit* manager *duties.* *(1)* ~~The~~ *A credit union may use a* credit committee ~~may be dispensed with and~~ *or* a credit manager ~~may be empowered~~ to approve or disapprove loans under conditions ~~prescribed by~~ the board of directors *prescribes*. ~~If the credit committee is dispensed with, the procedures prescribed in 32-3-413 through 32-3-415 do not apply and loans may not be made unless approved by the credit manager, except~~

(2) The credit committee or the credit manager may appoint one or more loan officers with the power to approve loans, subject to limitations or conditions that the ~~credit manager~~ *board of directors* prescribes. *The board of directors shall provide an appeal process for applications rejected by loan officers.*

(3) If a credit union uses a credit committee, a quorum of the credit committee shall meet as often as required to consider loan applications. A majority of the credit committee members who are present at the meeting at which an application is considered is required for approval of the application.

(4) Credit union policies set by the board of directors may determine the loan size or type of loans that a credit committee or credit manager may approve."

Section 10. Section 32-3-417, MCA, is amended to read:

"32-3-417. Audits. (1) The board of directors or supervisory committee shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union and shall submit a report of that audit to the board of directors and a summary of that report to the members at the next annual meeting of the credit union. The board or committee shall make or cause to be made any supplementary audits or examinations as it considers necessary or as are required by the department of administration or by the board of directors and submit reports of these supplementary audits to the board of directors.

(2) The board of directors or supervisory committee shall ~~cause the accounts of the members to be verified with the records of the credit union from time to time and not less frequently than every 2 years~~ *verify the records of the credit union consistent with 12 CFR 715.8 and 12 CFR 741.202.*"

Section 11. Section 32-3-418, MCA, is amended to read:

"32-3-418. Suspension and removal of officials. ~~(1) The supervisory committee by a unanimous vote may suspend any member of the credit committee and shall report the action to the board of directors for appropriate action.~~

~~(2)~~*(1)* The supervisory committee by a unanimous vote may suspend any ~~officer or member of the board of directors~~ *official* until the next ~~members'~~ *membership* meeting, which must be held not less than 7 or more than 21 days after the suspension. At the meeting, the suspension must be acted upon by the members.

~~(3)~~*(2)* Any member of the supervisory committee may be removed by the board of directors for failure to perform the member's duties in accordance with this chapter, the articles of incorporation, or the bylaws."

Section 12. Section 32-3-608, MCA, is amended to read:

"32-3-608. Loans to officials. (1) *(a) Except as provided in subsection (1)(b),* ~~A~~ *a* credit union may make loans to its ~~directors, employees, loan officers, and credit manager and to members of its supervisory and credit committees~~ *officials* if:

~~(a)~~*(i)* the loan complies with the requirements of this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers~~, except that employees may receive low-interest or no-interest loans for job-related expenses under an employee assistance program approved by the department of administration~~; and

~~(b)~~*(ii)* the loan or aggregate of loans to any one ~~director or committee member~~ *official* that exceeds $20,000 plus pledged shares ~~must be~~ *is* reported to the board of directors. Loans to ~~directors and committee members~~ *officials* may not exceed an aggregate of 20% of unimpaired capital of the credit union.

(b) Employees other than officials may receive loans more favorable than those extended to other borrowers, including low-interest or no-interest loans.

(2) A credit union may permit directors, ~~employees,~~ loan officers, the credit manager, and members of its supervisory and credit committees to act as

comakers, guarantors, or endorsers of loans to other members. If the loan standing alone or when added to any outstanding loan or loans to the comaker, guarantor, or endorser exceeds $20,000, a report to the board of directors is required."

Section 13. Section 32-3-701, MCA, is amended to read:

"32-3-701. Investment of funds — *rulemaking.* *(1)* Funds not used in loans to members may be invested in:

~~(1)~~*(a)* securities, obligations, or other instruments ~~of or~~ issued by or fully guaranteed as to principal and interest by the United States of America~~,~~ or any agency ~~thereof~~ *of the United States government*~~,~~ or in any trust ~~or trusts~~ established for investing directly or collectively in *securities, obligations, or other instruments issued by or fully guaranteed as to principal and interest by* the ~~same~~ *United States government*;

~~(2)~~*(b)* general obligations of any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the several territories organized by congress, or any political subdivisions ~~thereof~~ *of entities listed in this subsection (1)(b)*;

~~(3)~~*(c)* certificates of deposit or passbook type accounts issued by a state or national bank, mutual savings bank, building and loan association, or savings and loan association;

~~(4)~~*(d)* loans to or in shares or deposits of other credit unions;

~~(5)~~*(e)* the capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association, or membership corporation, provided the membership or stockholdings, as the case may be, of ~~such~~ *the* agency or association are primarily confined or restricted to credit unions or organizations of credit unions and provided the purposes for which ~~such~~ *the* agency or association is organized are designed primarily to service or otherwise assist credit union operations;

~~(6)~~*(f)* shares of a cooperative society organized under the laws of this state or of the laws of the United States in the total amount not exceeding 10% of the shares and surplus of the credit union;

~~(7)~~*(g)* loans to any credit union association or corporation, national or state, of which the credit union is a member, except that ~~such~~ *the* investments ~~shall~~ *authorized under this subsection (1)(g) must* be limited to 2% of the assets of the credit union.

(2) A credit union may purchase, sell, underwrite, and hold other investment securities that are obligations in the form of bonds, notes, or debentures, as provided in rules adopted by the department. However, a credit union may not purchase, sell, underwrite, or hold investment securities that are derivative transactions.

(3) The department shall adopt rules to implement this section."

Section 14. Repealer. The following sections of the Montana Code Annotated are repealed:

32-3-413. Authority of credit committee.

32-3-414. Meeting of credit committee — loan approval.

32-3-415. Loan officers.

32-3-601. Loans — purposes, terms, and conditions.

Approved April 27, 2015

CHAPTER NO. 318

[HB 554]

AN ACT REVISING LAWS APPLYING TO SECURITIES MULTILEVEL MARKETING COMPANIES; CREATING REQUIREMENTS FOR NOTICE OF ACTIVITY AND CONSENT TO SERVICE TO BE SUBMITTED TO THE SECURITIES COMMISSIONER; REVISING DEFINITIONS; AMENDING SECTIONS 30-10-301, 30-10-303, AND 30-10-324, MCA; AND REPEALING SECTION 30-10-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Notice of activity — consent to service. (1) A multilevel marketing company shall file with the commissioner on forms prescribed by the commissioner:

(a) prior to obtaining a participant that is a resident of this state:

(i) a notice that the company intends to operate in this state; and

(ii) an irrevocable consent designating the commissioner as its agent for service of process for any alleged violation of 30-10-325; and

(b) following the initial filing under subsection (1)(a), an annual notice of the company's operations in this state.

(2) The forms in subsection (1) must include, at a minimum:

(a) the names, home or business addresses, dates of birth, and titles of the multilevel marketing company's officers, directors, and trustees;

(b) the multilevel marketing company's corporate name, state of domicile and state of incorporation, and headquarters mailing address, e-mail address, and telephone and telefax numbers; and

(c) a detailed description of the levels of distribution in the multilevel marketing company, the manner of compensating participants, and the compensation structure of the marketing plan.

(3) Compliance with this section does not confer on a multilevel marketing company any license or registration or signify that the state has sanctioned, approved, registered, or endorsed a multilevel marketing company or its sales plan or operation.

(4) A multilevel marketing company or any individual or entity affiliated with a multilevel marketing company may not represent that the multilevel marketing company, individual, or entity is licensed, sanctioned, approved, registered, or endorsed in this state by virtue of compliance with 30-10-325 and this section.

(5) The requirements of subsections (1) and (2) do not apply to a direct selling association member.

Section 2. Section 30-10-301, MCA, is amended to read:

"30-10-301. Fraudulent and other prohibited practices. (1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, to:

(a) employ any device, scheme, or artifice to defraud;

(b) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

(2) (a) It is unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analysis or reports or otherwise:

(i) to employ any device, scheme, or artifice to defraud the other person;

(ii) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon the other person; or

(iii) without disclosing to the client in writing before the completion of the transaction the capacity in which the person is acting and obtaining the consent of the client to the transaction:

(A) acting as principal for the person's own account, to knowingly sell any security to or purchase any security from a client; or

(B) acting as agent for a person other than the client, to knowingly effect the sale or purchase of any security for the account of the client.

(b) The prohibitions of subsection (2)(a)(iii) do not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not being compensated for rendering investment advice in relation to the transaction.

(3) In the solicitation of advisory clients, it is unlawful for a person to:

(a) make a false statement of a material fact; or

(b) omit a material fact necessary to make a statement not misleading in light of the circumstances under which it is made.

(4) Except as permitted by rule or order of the commissioner, it is unlawful for any investment adviser who is registered or required to be registered to enter into, extend, or renew any investment advisory contract unless it provides in writing that:

(a) the investment adviser may not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) an assignment of the contract may not be made by the investment adviser without the consent of the other party to the contract; and

(c) the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(5) Subsection (4)(a) does not prohibit an investment advisory contract that provides for compensation based upon the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date. "Assignment", as used in subsection (4)(b), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but if the investment adviser is a partnership, an assignment of an investment advisory contract is not considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(6) It is unlawful for an investment adviser to take or have custody of any securities or funds of any client if:

(a) the commissioner by rule prohibits custody; or

(b) in the absence of rule, the investment adviser fails to notify the commissioner that the investment adviser has or may have custody.

(7) It is unlawful for a multilevel ~~distribution~~ *marketing* company or a person who directly or indirectly controls a multilevel ~~distribution~~ *marketing* company, in the course of transacting business in, into, or from this state, to:

(a) employ any device, scheme, or artifice to defraud;

(b) make a false statement of a material fact;

(c) omit a material fact necessary to make a statement not misleading in light of the circumstances under which it is made; or

(d) engage in any other act, practice, or course of business that operates or would operate as a fraud or deceit upon any person."

Section 3. Section 30-10-303, MCA, is amended to read:

"30-10-303. Unlawful representation concerning registration or exemption. (1) The fact that an application for registration under 30-10-201(6) ~~or 30-10-216~~, a notice filing under 30-10-211 *[or section 1]*, or a registration statement under 30-10-203, 30-10-204, or 30-10-205 has been filed or the fact that a person or security is effectively registered or a complete notice filing has been made does not constitute a finding by the commissioner that any document filed under parts 1 through 3 of this chapter is true, complete, and not misleading.

(2) The fact that an application for registration or a notice filing has been filed or a person or security is effectively registered or a complete notice filing has been made as provided in subsection (1) or the fact that an exemption or exception is available for a person, security, or transaction does not mean that the commissioner has passed in any way upon the merits of, qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make or cause to be made to any prospective purchaser, customer, or client any representation inconsistent with this section."

Section 4. Section 30-10-324, MCA, is amended to read:

"30-10-324. Definitions. As used in ~~30-10-216,~~ 30-10-301, 30-10-324, ~~and~~ 30-10-325, *and [section 1],* the following definitions apply:

(1) ~~(a)~~*(a)* "Compensation" means the receipt of money, a thing of value, or a financial benefit.

~~(b) Compensation does not include:~~

~~(i) payments to a participant based upon the sale of goods or services by the participant to third persons when the goods or services are purchased for actual use or consumption; or~~

~~(ii) payments to a participant based upon the sale of goods or services to the participant that are used or consumed by the participant.~~

(b) Compensation does not include:

(i) payments to a participant based on the sale of goods or services by the participant to third persons when the goods or services are purchased for actual use or consumption; or

(ii) payments to a participant based on the sale of goods or services to the participant that are used or consumed by the participant.

(2) (a) "Consideration" means the payment of money, the purchase of goods or services, or the purchase of intangible property.

(b) Consideration does not include:

(i) the purchase of goods or services furnished at cost that *are*

~~are used in making sales and~~ *used in making sales and that are not for resale; or*

~~that are not for resale; or~~

(ii) a participant's time and effort expended in the pursuit of sales or in recruiting activities.

(3) "Direct selling association" means the nonprofit entity incorporated in the state of Delaware and recognized by the department as the direct selling association.

(4) "Multilevel ~~distribution~~ *marketing* company" means a person that:

(a) sells, distributes, or supplies goods or services through independent agents, contractors, or distributors*:*

(i) at different levels of distribution; *or*

(ii) pursuant to a formula for compensating participants in whole or in part based on purchases of sales by or recruitment of other participants;

(b) ~~may~~ *permits participants to* recruit other participants in the company; and

(c) ~~is eligible~~ *provides* for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment of or the performance or actions of other participants.

(5) "Participant" means a person involved in a sales plan or operation.

(6) "Person" means an individual, corporation, partnership, limited liability company, or other business entity.

(7) (a) "Pyramid promotional scheme" means a sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant.

(b) A pyramid promotional scheme includes a Ponzi scheme, in which a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture.

(c) A pyramid promotional scheme does not include a sales plan or operation that:

(i) subject to the provisions of subsection ~~(7)(c)(v)~~ *(7)(c)(iv)*, provides compensation to a participant based primarily ~~upon~~ *on* the sale of goods or services by the participant, including goods or services used or consumed by the participant *or other participants*, and not primarily for obtaining the participation of other persons in the sales plan or operation ~~and that provides compensation to the participant based upon the sale of goods or services by persons whose participation in the sales plan or operation has been obtained by the participant~~;

(ii) does not require a participant to purchase goods or services in an amount that unreasonably exceeds an amount that can be expected to be resold or consumed within a reasonable period of time;

~~(iii) is authorized to use a federally registered trademark or servicemark that identifies the company promoting the sales plan or operation, the goods or services sold, or the sales plan or operation;~~

~~(iv)~~*(iii)* (A) provides each person joining the sales plan or operation with a written agreement containing or a written statement describing the material terms of participating in the sales plan or operation;

(B) allows a person at least 15 days to cancel the person's participation in the sales plan or operation; and

(C) provides that if the person cancels participation within the time provided and returns any items given to the person to assist in marketing goods or services under the plan, the person is entitled to a refund of any consideration given to participate in the sales plan or operation; and

~~(v)~~*(iv)* (A) ~~upon~~ *on* the request of a participant deciding to terminate participation in the sales plan or operation, provides for the repurchase, at not less than 90% of the amount paid by the participant, of any currently marketable goods or services sold to the participant within 12 months of the request that have not been resold or consumed by the participant; and

(B) if disclosed to the participant at the time of purchase, provides that goods or services are not considered currently marketable if the goods have been consumed or the services rendered or if the goods or services are seasonal, discontinued, or special promotional items. Sales plan or operation promotional materials, sales aids, and sales kits are subject to the provisions of this subsection (7)(c)(v) if they are a required purchase for the participant or if the participant has received or may receive a financial benefit from their purchase.

(8) "Transacting business" means to directly or indirectly:

(a) offer, sell, distribute, or supply goods or services through independent agents, contractors, or distributors at different levels of distribution; or

(b) recruit or attempt to recruit participants in a multilevel distribution company."

Section 5. Repealer. The following section of the Montana Code Annotated is repealed:

30-10-216. Registration requirements for multilevel distribution companies.

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 30, chapter 10, part 3, and the provisions of Title 30, chapter 10, part 3, apply to [section 1].

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 27, 2015

CHAPTER NO. 319

[SB 112]

AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PRIORITIZE DEVELOPMENT OF A TOTAL MAXIMUM DAILY LOAD (TMDL) WHEN A COMPLETE TMDL IS REQUIRED FOR ISSUANCE OF A PERMIT TO DISCHARGE INTO STATE WATERS; SETTING DEADLINES FOR TMDL COMPLETION; ALLOWING AN APPLICANT TO PROVIDE FUNDING FOR TMDL DEVELOPMENT UNDER CERTAIN CIRCUMSTANCES; ALLOWING FOR A HEARING BEFORE THE BOARD OF ENVIRONMENTAL REVIEW; REQUIRING TMDL DEVELOPMENT FOR EXISTING APPLICATIONS TO DISCHARGE INTO STATE WATERS THAT REQUIRE A COMPLETE TMDL; AMENDING

SECTION 75-5-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-702, MCA, is amended to read:

"75-5-702. Monitoring — water quality assessment listing — *costs payable by department* — statewide advisory group. (1) The department shall monitor state waters to assess the quality of those waters and to identify surface water bodies or segments of surface water bodies that are threatened or impaired. The department shall use the monitoring results to revise the list of water bodies that are identified as threatened or impaired and to establish a priority ranking for TMDL development for those waters in accordance with subsections (4) and (7).

(2) In revising the list prepared pursuant to this section, the department shall use all currently available data, including information or data obtained from federal, state, and local agencies, private entities, or individuals with an interest in water quality protection. Except as provided in subsection (6), the department may modify the list only if there is sufficient credible data to support the modification. Prior to publishing a final list, the department shall provide public notice and allow 60 days for public comment on the draft list. The department shall make available for public review, upon request, documentation used in the determination to list or delist a particular water body, including, at a minimum, a description of the information, data, and methodology used. The department may charge a reasonable fee for the documentation, commensurate with the cost of providing the documentation to the requestor.

(3) A person may request that the department add or remove a water body or reprioritize a water body on a draft or published list by providing the data or information necessary to support the request. The department shall review the data within 60 days from its submittal. If the department determines that there is sufficient credible data to grant the request, the department shall provide public notice of its intended action and allow 60 days for public comment prior to taking action on the request. A person aggrieved by the department's decision to grant or deny the request may appeal the department's decision to the board.

(4) The department shall, in consultation with local conservation districts and watershed advisory groups pursuant to 75-5-704, review and revise the list and priority rankings of water bodies identified as threatened or impaired. The department shall review and revise the list at intervals not to exceed 5 years. The department shall make available for public review the data and information used in making any changes in its list of threatened or impaired water bodies that is developed and maintained pursuant to this section.

(5) By October 1, 1999, and in consultation with the statewide TMDL advisory group established pursuant to subsection ~~(9)~~ *(10)*, the department shall develop and maintain a data management system that can be used to assess the validity and reliability of the data used in the listing and priority ranking process. The department shall make available to the public, upon request, data from its data management system. The department may charge a reasonable fee for the data, commensurate with its cost of providing the data to the requestor.

(6) By October 1, 1999, and in consultation with the statewide TMDL advisory group, the department shall use the data management system developed and maintained pursuant to subsection (5) to revise the list and to remove any water body that lacks sufficient credible data to support its listing. If the department removes a water body because there is a lack of sufficient

credible data to support its listing, the department shall monitor and assess that water body during the next field season or as soon as possible thereafter to determine whether it is a threatened water body or an impaired water body.

(7) ~~In~~ *Except as provided in subsection (9), in* prioritizing water bodies for TMDL development, the department shall, in consultation with the statewide TMDL advisory group, take into consideration the following:

(a) the beneficial uses established for a water body;

(b) the extent that natural factors over which humans have no control are contributing to any impairment;

(c) the impacts to human health and aquatic life;

(d) the degree of public interest and support;

(e) the character of the pollutant and the severity and magnitude of water quality standard noncompliance;

(f) whether the water body is an important high-quality resource in an early stage of degradation;

(g) the size of the water body not achieving standards;

(h) immediate programmatic needs, such as waste load allocations for new permits or permit renewals and load allocations for new nonpoint sources;

(i) court orders and decisions relating to water quality;

(j) state policies and priorities, including the protection and restoration of native fish when appropriate;

(k) the availability of technology and resources to correct the problems;

(l) whether actions or voluntary programs that are likely to correct the impairment of a particular water body are currently in place; and

(m) the recreational, economic, and aesthetic importance of a particular water body.

(8) ~~The~~ *Except as provided in subsection (9), the* department shall, in consultation with the statewide TMDL advisory group, develop a method of rating water bodies according to the criteria and considerations described in subsection (7) in order to rank the listed water bodies as high priority, moderate priority, or low priority for TMDL development. The department may not rank a water body as a high priority under this section without first validating the data necessary to support the ranking.

(9) (a) When the department receives an application for a new individual permit to discharge into a surface water body or a segment of a surface water body pursuant to 75-5-401, the surface water body or segment of a surface water body has been listed pursuant to subsection (2) of this section, the discharge would contain a pollutant for which the water body or segment is threatened or impaired, and a TMDL has not been developed for that water body or segment, the department shall:

(i) within 30 days of the department's receipt of the application, initiate the development of a TMDL on the water body or segment; and

(ii) except as provided in subsection (9)(b), within 180 days of the department's receipt of the application, complete development of the TMDL pursuant to 75-5-703.

(b) If the department is not able to complete development of the TMDL in accordance with subsection (9)(a)(ii), the department shall, within 30 days of the department's receipt of the application, specify in writing to the applicant why the department is not able to complete development of a TMDL in accordance

with subsection (9)(a)(ii). The department and the applicant shall make reasonable efforts to mutually agree in writing to a timeframe in which the department shall complete development of the TMDL. If the department specifies a lack of resources as a reason why the department cannot complete development of the TMDL in accordance with subsection (9)(a)(ii), the department shall clearly explain in its written specification what resources are not available, why those resources are not available, and when those resources will be available.

(c) If the department and the applicant cannot mutually agree to a timeframe in accordance with subsection (9)(b), the department shall, within 60 days of the department's receipt of the application, specify in writing to the applicant the timeframe in which the TMDL will be completed by the department and the reasons why that timeframe is appropriate. If the department specifies a lack of resources as a reason why the department's timeframe is appropriate, the department may request the applicant provide funding for the development of the TMDL in order to accelerate the completion of the TMDL.

(d) The applicant may, within 15 days of the department's written specification provided in accordance with subsection (9)(c), request in writing a hearing before the board for the purpose of petitioning the board to reverse or modify the department's decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection. If the parties to the contested case waive a formal proceeding pursuant to 2-4-603, the informal proceeding must be conducted within 30 days after the board's receipt of written request. After the hearing and in a reasonable time, the board shall affirm, modify, or reverse the action of the department, and the board shall make findings and conclusions that explain its decision. Pending the board's decision, the department shall develop the TMDL in accordance with the timeframe specified in subsection (9)(a)(ii).

(e) The department may not declare an application incomplete or deficient because a TMDL has not been prepared.

(f) If on [the effective date of this act], an application for a new individual permit to discharge into a surface water body or a segment of a surface water body pursuant to 75-5-401 is pending, the surface water body or segment of a surface water body has been listed pursuant to subsection (2) of this section, the discharge would contain a pollutant for which the water body or segment is threatened or impaired, and a TMDL has not been developed for the water body or segment, the department shall, except as provided in subsection (9)(g), complete a TMDL for the water body or segment within 180 days of [the effective date of this act].

(g) If the department is not able to complete development of the TMDL within 180 days of [the effective date of this act] pursuant to subsection (9)(f), then the timeframes established in accordance with subsections (9)(b), (9)(c), and (9)(d) apply to the application, but the timeframes are measured from [the effective date of this act], not from the date the department receives an application.

~~(9) (a)~~*(10) (a)* The department shall establish a statewide TMDL advisory group to serve in the consultation capacity set forth in 75-5-703, 75-5-704, and this section. Fourteen members, and any replacement members that may be necessary, must be appointed by the director, based upon one nomination from each of the following interests:

(i) livestock-oriented agriculture;

(ii) farming-oriented agriculture;

(iii) conservation or environmental interests;

(iv) water-based recreationists;

(v) the forestry industry;

(vi) municipalities;

(vii) point source dischargers;

(viii) mining;

(ix) federal land management agencies;

(x) state trust land management agencies;

(xi) supervisors of soil and water conservation districts for counties east of the continental divide;

(xii) supervisors of soil and water conservation districts for counties west of the continental divide;

(xiii) the hydroelectric industry; and

(xiv) fishing-related businesses.

(b) If the director receives more than one nomination from a particular interest, the director shall notify the respective nominators and request that they agree on one nominee.

~~(10)~~*(11)* The department shall provide public notice of meetings of the statewide TMDL advisory group and shall solicit, document, and consider public comments provided during the deliberations of the advisory group."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 320

[SB 123]

AN ACT REVISING THE REGULATORY AUTHORITY OVER MONTANA STATE FUND TO PROVIDE REGULATORY AND COMPLAINT PROCESSES UNDER THE INSURANCE COMMISSIONER THAT GENERALLY ARE APPLICABLE TO PRIVATE WORKERS' COMPENSATION INSURERS; PREVENTING THE INSURANCE COMMISSIONER FROM DISSOLVING OR SUSPENDING THE LICENSE OF STATE FUND; SUBJECTING THE RATEMAKING AUTHORITY OF THE STATE FUND'S BOARD OF DIRECTORS TO THE SAME REVIEW BY THE INSURANCE COMMISSIONER AS EXPERIENCED BY PRIVATE-SECTOR INSURERS; REVISING THE BUDGETING AND FINANCIAL REPORTING FUNCTIONS OF THE STATE FUND TO A CALENDAR YEAR BASIS; PROVIDING AN ENHANCED RISK-BASED CAPITAL MECHANISM TO ALERT THE INSURANCE COMMISSIONER TO POTENTIAL STATE FUND FINANCIAL INSTABILITY; PROVIDING REHABILITATION AUTHORITY TO THE INSURANCE COMMISSIONER FOR STATE FUND; REVISING REFERENCE TO EXCESSIVE RATES AS RELATED TO MARKET COMPETITION; REMOVING RATE REVIEW FROM THE LEGISLATIVE AUDITOR'S DUTIES; REMOVING BUDGETARY REVIEW FROM THE LEGISLATIVE FISCAL ANALYST'S DUTIES; PROVIDING FOR A TRANSITION; AMENDING SECTIONS 2-4-101, 17-1-102, 17-2-110, 33-1-102, 33-2-1902, 33-16-303, 33-16-1002, 33-16-1008, 33-16-1021, 33-16-1033, 33-16-1035, 39-71-2312, 39-71-2315, 39-71-2316, 39-71-2323, 39-71-2330, 39-71-2332, 39-71-2351, 39-71-2361, AND 39-71-2363, MCA; REPEALING

SECTIONS 33-16-1024, 39-71-2314, AND 39-71-2362, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Operation of state fund as authorized insurer — issuance of certificate of authority — exceptions — use of calendar year — risk-based capital — reporting requirements. (1) The state fund provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state and the provisions of Title 39, chapter 71, part 23.

(2) (a) The commissioner shall issue a certificate of authority to the state fund to write workers' compensation insurance coverages, as provided in 39-71-2316, and except as otherwise provided in this section the requirements of Title 33, chapter 2, part 1, do not apply. The certificate of authority must be continuously renewed by the commissioner.

(b) The state fund shall pay the annual fee under 33-2-708, provide the surplus funds required under 33-2-109 and 33-2-110, and provide to the commissioner the available documentation and information that is provided by other insurers when applying for a certificate of authority under 33-2-115.

(c) The state fund is subject to the reporting requirements under 33-2-705 but is not subject to the tax on net premiums.

(3) (a) The state fund, as the guaranteed market for workers' compensation insurance for employers pursuant to 39-71-2313, is not subject to:

(i) formation requirements of an insurer under Title 33, chapter 3;

(ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any order or any provision that requires forfeiture of state fund's obligation to insure employers as required in 39-71-2313;

(iii) liquidation or dissolution under Title 33;

(iv) participation in the guaranty association provided for in Title 33, chapter 10;

(v) 33-12-104; or

(vi) any assessment of punitive or exemplary damages.

(b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and (1)(g).

(4) State fund shall complete financial reporting and accounting on a calendar year basis.

(5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the legislature. If the legislature is not in session, the report must go to the economic affairs interim committee and to the legislative auditor. The report must provide a description of the RBC measurement, the regulatory implications of the state fund falling below the RBC criteria, and the state fund's corrective action plan. If the commissioner is reporting on a regulatory action level RBC event, the report must include the state fund's corrective action plan, results of any examination or analysis by the commissioner, and any corrective orders issued by the commissioner.

(b) If state fund fails to comply with any lawful order of the commissioner, the commissioner may initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If state fund fails to comply with the

commissioner's lawful supervision order under this subsection (5)(b), the commissioner may institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for rehabilitation based on the grounds provided in 33-2-1321(1) or (2).

(6) The state fund shall annually transfer funds to the commissioner, out of its surplus, for all necessary staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-time examiner qualified by education, training, experience, and high professional competence to examine the state fund pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be employees of the commissioner.

(7) For the purposes of this section, the term "guaranteed market" has the definition provided in 39-71-2312.

Section 2. Section 2-4-101, MCA, is amended to read:

"2-4-101. Short title — purpose — *exception.* (1) This chapter is known and may be cited as the "Montana Administrative Procedure Act".

(2) The purposes of the Montana Administrative Procedure Act are to:

(a) generally give notice to the public of governmental action and to provide for public participation in that action;

(b) establish general uniformity and due process safeguards in agency rulemaking, legislative review of rules, and contested case proceedings;

(c) establish standards for judicial review of agency rules and final agency decisions; and

(d) provide the executive and judicial branches of government with statutory directives.

(3) Effective July 1, 2016, this chapter does not apply to the operations of the state compensation insurance fund provided for in Title 39, chapter 71, part 23. Administrative rules adopted by the state fund board of directors prior to July 1, 2016, apply to new and renewal policies issued by state fund that are effective prior to July 1, 2016. State fund is subject to rules adopted by any agency that by law apply to state fund."

Section 3. Section 17-1-102, MCA, is amended to read:

"17-1-102. Uniform accounting system and expenditure control. (1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees may be eliminated, public service may be improved, and the cost of government may be reduced.

(2) The department shall prescribe and install a uniform accounting and reporting system for all state agencies and institutions, reporting the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles.

(3) The uniform accounting and reporting system must contain three levels of expenditure. The first level must include general categories, such as personal services, operating expenses, equipment, capital outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include specific categories of expenditures within each first-level category. The third level of expenditure must include specific items of expenditure within each category of the second level.

(4) *(a)* ~~All~~ *Except as provided in subsection (4)(b), all* state agencies, including units of the university system but excluding community colleges, shall input all necessary transactions to the accounting system prescribed in

subsection (2) before the accounts are closed at the end of the fiscal year in order to present the receipt, use, and disposition of all money and property for which the agency is accountable in accordance with generally accepted accounting principles, except that for budgetary control purposes, encumbrances that are required by generally accepted accounting principles to be reported as a reservation of fund balance must be recorded as expenditures and liabilities on the accounting records in accordance with the following requirements:

~~(a)~~*(i)* Goods and services, grants, and local assistance that are paid for with the general fund, in whole or in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a specific extension plan must be presented by the encumbering agency to the department prior to the fiscal yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance at fiscal yearend. The department shall present a fiscal yearend report to the office of budget and program planning and to the legislative fiscal analyst on each general fund encumbrance remaining at fiscal yearend. The report must be provided in an electronic format.

~~(b)~~*(ii)* Nongeneral fund encumbrances also require a valid extension plan approved by the department at the end of each fiscal year. After 3 years, approved extensions must be included by the department in its fiscal yearend report to the office of budget and program planning and to the legislative finance committee.

(b) The state fund provided for in Title 39, chapter 71, part 23, shall report on a calendar year basis."

Section 4. Section 17-2-110, MCA, is amended to read:

"17-2-110. Fiscal year and financial reports. (1) ~~The~~ *Except for the state fund, provided for in Title 39, chapter 71, part 23, the* fiscal year for state purposes commences on July 1 of each year and ends on June 30 of each year. *The state fund's fiscal year starts on January 1 of each year and ends on December 31 of that same year.*

(2) At the end of each fiscal year, the fiscal records of each state office, department, bureau, commission, institution, university unit, and agency ~~(collectively referred to as "state agency")~~*, collectively referred to as "state agency",* must be closed. Each state agency shall prepare the financial records and reconciliations for the fiscal year as the department of administration may prescribe. The financial reports of the uniform accounting and reporting system prescribed in 17-1-102(2) are to be completed and distributed not more than 31 days following the end of each fiscal year. The department of administration may extend this time limit if a state agency can show necessity for the extension.

(3) The reports are to be distributed to the department of administration and the legislative auditor and any other state agency that the department of administration may prescribe. It is the intent of this provision that these reports accurately and comprehensively present the financial activities of the reporting state agency in accordance with generally accepted accounting principles so that the reports can be effectively used by the executive and legislative branches of state government.

(4) Upon consolidation of the reports, the annual financial report by the department of administration must be available for other individuals and organizations interested in the financial affairs of the state of Montana."

Section 5. Section 33-1-102, MCA, is amended to read:

"33-1-102. (Temporary) Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs — service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) Except as provided in Title 33, chapter 40, part 1, this code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, ~~parts~~ *part* 21 ~~and 23~~, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited

circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.

(12) Except as provided in Title 33, chapter 40, part 1, this code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) This code does not apply to guaranteed asset protection waivers that are governed by 30-14-151 through 30-14-157. (Terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)

33-1-102. (Effective January 1, 2018) Compliance required — exceptions — health service corporations — health maintenance organizations — governmental insurance programs — service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, ~~parts~~ *part* 21 ~~and 23~~, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.

(12) This code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) This code does not apply to guaranteed asset protection waivers that are governed by 30-14-151 through 30-14-157."

Section 6. Section 33-2-1902, MCA, is amended to read:

"33-2-1902. Definitions. As used in this part, the following definitions apply:

(1) "Adjusted RBC report" means an RBC report that has been adjusted by the commissioner in accordance with 33-2-1903(5).

(2) "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

(3) "Domestic insurer" means any insurance company domiciled in this state.

(4) "Foreign insurer" means any insurance company licensed to do business in this state under 33-2-116 but not domiciled in this state.

(5) "Life or disability insurer" means:

(a) any insurance company licensed under 33-2-116 and engaged in the business of entering into contracts of disability insurance, as described in 33-1-207, or life insurance, as described in 33-1-208;

(b) a licensed property and casualty insurer writing only disability insurance; or

(c) any insurer engaged solely in the business of reinsurance of life or disability contracts.

(6) "NAIC" means the national association of insurance commissioners.

(7) "Negative trend" means, with respect to a life or health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the RBC instructions.

(8) (a) "Property and casualty insurer" means:

(i) any insurance company licensed under 33-2-116 and engaged in the business of entering into contracts of property insurance, as described in 33-1-210, or casualty insurance, as described in 33-1-206;

(ii) any insurance company engaged solely in the business of reinsurance of property and casualty contracts; or

(iii) any insurance company engaged in the business of surety and marine insurance.

(b) The term does not include monoline mortgage guaranty insurers, financial guaranty insurers, and title insurers.

(9) "RBC instructions" means the RBC report, including risk-based capital instructions adopted by the NAIC, as the RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(10) "RBC level" means an insurer's authorized control level RBC, company action level RBC, mandatory control level RBC, or regulatory action level RBC, ~~where~~ *in which*:

(a) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) *(i)* "company action level RBC" means, with respect to any insurer *except state fund as provided in subsection (10)(b)(ii)*, the product of 2 and its authorized control level RBC;

(ii) "company action level RBC" for state fund is the product of 4 and its authorized control level RBC;

(c) "mandatory control level RBC" means the product of 0.70 and the authorized control level RBC; and

(d) *(i)* "regulatory action level RBC" means*, except for the state fund as provided in subsection (10)(d)(ii),* the product of 1.5 and its authorized control level RBC.

(ii) "regulatory action level RBC" for state fund is the product of 3 and its authorized control level RBC.

(11) "RBC plan" means a comprehensive financial plan containing the elements specified in 33-2-1904(2). If the commissioner rejects the RBC plan

and it is revised by the insurer, with or without the commissioner's recommendation, the plan must be called a revised RBC plan.

(12) "RBC report" means the report required in 33-2-1903.

(13) "Total adjusted capital" means the sum of:

(a) an insurer's statutory capital and surplus; and

(b) other items, if any, as the RBC instructions may provide."

Section 7. Section 33-16-303, MCA, is amended to read:

"33-16-303. Use of rates, rating systems, underwriting rules, and policy or bond forms of rating or advisory organizations — agreements to adhere to. (1) Members and subscribers of rating or advisory organizations may use the rates, rating systems, underwriting rules, or policy or bond forms of those organizations, either consistently or intermittently, but, except as provided in 33-16-105, 33-16-302, 33-16-305, 33-16-307, 33-16-1008, ~~and~~ 33-16-1020 through *33-16-1023 and 33-16-1025 through* 33-16-1036, may not agree with each other or rating organizations or others to adhere to the organizations' rates, systems, rules, or policy or bond forms.

(2) The fact that two or more admitted insurers, whether or not members or subscribers of a rating or advisory organization, use, either consistently or intermittently, the rates or rating systems made or adopted by a rating organization or the underwriting rules or policy or bond forms prepared by a rating or advisory organization is not sufficient in itself to support a finding that an agreement prohibited under subsection (1) exists and may be used only for the purpose of supplementing or explaining direct evidence of the existence of any agreement."

Section 8. Section 33-16-1002, MCA, is amended to read:

"33-16-1002. Applicability of part. This part, together and in conjunction with parts 1 through 4 of this chapter, applies to the making of premium rates for workers' compensation insurance issued under compensation plan No. 2 *and plan No. 3* of the Workers' Compensation Act, Title 39, chapter 71, part 22 *and part 23, respectively*, or related employer's liability insurance, but does not apply to reinsurance."

Section 9. Section 33-16-1008, MCA, is amended to read:

"33-16-1008. Definitions. As used in this part, the following definitions apply:

(1) "Accepted actuarial standards" means the standards adopted by the casualty actuarial society in its Statement of Principles Regarding Property and Casualty Insurance Ratemaking and the Standards of Practice adopted by the actuarial standards board.

(2) *(a)* "Advisory organization" means a person or organization that either has two or more member insurers or is controlled either directly or indirectly by two or more insurers and that assists insurers in ratemaking-related activities.

(b) The term does not include a joint underwriting association, any actuarial or legal consultant, or any employee of an insurer or insurers under common control or management or their employees or manager. ~~As used in~~ *For the purposes of* this subsection *(2)(b)*, two or more insurers who have a common ownership or operate in this state under common *control or* management ~~or control~~ constitute a single insurer.

(3) "Classification system" means the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations, or operations of insurance policyholders.

(4) "Contingencies" means provisions in rates to recognize the uncertainty of the estimates of losses, loss adjustment expenses, other operating expenses, and investment income and profit that comprise those rates. The provisions may be explicit, including but not limited to a specific charge to reflect systematic variations of estimated costs from expected costs, or implicit, including but not limited to a consideration in selecting a single estimate from a reasonable range of estimates, or both.

(5) "Developed losses" means adjusted losses, including loss adjustment expenses, using accepted actuarial standards to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss payments, including loss adjustment expense payments.

(6) "Expenses" means the portion of a rate that is attributable to acquisition, filed supervision and collection expenses, general expenses and taxes, licenses, or fees.

(7) "Experience rating" means a rating procedure using past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(8) "Insurer" means a person licensed to write workers' compensation insurance as a plan No. 2 insurer *or plan No. 3, the state fund,* under the laws of the state.

(9) "Loss trending" means a procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective, including loss ratio trending.

(10) "Market" means the interaction in this state between buyers and plan No. 2 sellers of workers' compensation and employer's liability insurance pursuant to the provisions of this part.

(11) (a) "Prospective loss costs" means historical aggregate losses and loss adjustment expenses, including all assessments that are loss-based and excluding any separately stated policyholder surcharges, projected through development to their ultimate value and through trending to a future point in time and ascertained by accepted actuarial standards.

(b) The term does not include provisions for profit or expenses other than loss adjustment expenses and assessments that are loss-based.

(12) "Pure premium rate" means the portion of the rate that represents the loss cost per unit of exposure, including loss adjustment expense.

(13) (a) "Rate" or "rates" means rate of premium, policy and membership fee, or any other charge made by an insurer for or in connection with a contract or policy of workers' compensation and employer's liability insurance, prior to application of individual risk variations based on loss or expense considerations.

(b) The term does not include minimum premiums.

(14) "Reserve estimates" means provisions for insurer obligations for future payments of loss or loss adjustment expenses.

(15) "Statistical plan" means the plan, system, or arrangement that is used in collecting data.

(16) "Supplementary rate information" means a manual or plan of rates, statistical plan, classification system, minimum premium, policy fee, rating rule, rate-related underwriting rule, and any other information needed to

determine the applicable premium for an individual insured that is consistent with the purposes of this part and with rules prescribed by rule of the commissioner.

(17) "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the commissioner."

Section 10. Section 33-16-1021, MCA, is amended to read:

"33-16-1021. Ratemaking standards — review by commissioner. (1) Rates may not be excessive, inadequate, or unfairly discriminatory.

(2) *(a)* ~~Rates~~ *Except as provided in subsection (2)(b), rates* in a competitive market are not excessive. Rates in a noncompetitive market are excessive if they are likely to produce a long-run profit that is unreasonably high in relation to services rendered.

(b) Rates for state fund may not be determined to be excessive unless the rate clearly is likely to produce an excess of assets over what is reasonably necessary to pay developed losses, contingencies, expenses, and a reasonable level of surplus.

(3) A rate may not be determined to be inadequate unless:

(a) ~~it~~ *the rate* is clearly insufficient to sustain projected losses and expenses;

(b) the rate is unreasonably low and the use of the rate by the insurer has had or, if continued, will tend to create a monopoly in the market; or

(c) funds equal to the full, ultimate cost of anticipated losses and loss adjustment expenses are not produced when prospective loss costs are applied to anticipated payrolls.

(4) Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with different loss exposures or expense levels.

(5) In determining whether rates comply with standards under subsection (1), consideration must be given to:

(a) past and prospective loss experience within and outside Montana, in accordance with accepted actuarial principles;

(b) catastrophe hazards and contingencies;

(c) past and prospective expenses within and outside Montana;

(d) loadings for leveling premium rates over time for dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;

(e) a reasonable margin for underwriting profit; and

(f) all other relevant factors within and outside Montana.

(6) The systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of any other insurer or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers.

(7) The rate may contain provisions of contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of a profit, consideration must be given to all investment income attributable to premiums and the reserves associated with those premiums.

(8) The commissioner may investigate and determine whether rates in Montana are excessive, inadequate, or unfairly discriminatory. In any investigation and determination, the commissioner shall also consider the factors specified in 33-16-1020."

Section 11. Section 33-16-1033, MCA, is amended to read:

"33-16-1033. Advisory organization — permitted activity. An advisory organization may:

(1) develop statistical plans, including class definitions;

(2) collect statistical data from members, subscribers, or any other source;

(3) prepare and distribute pure premium rate data, adjusted for loss development and loss trending, in accordance with its statistical plan. The data and adjustments must be in sufficient detail to permit insurers to modify pure premiums based upon their own rating methods or interpretations of underlying data.

(4) prepare and distribute manuals for rating rules and rating schedules that do not contain any rules or schedules, including final rates, without information outside the manuals;

(5) distribute information that is filed with the commissioner and open to public inspection;

(6) conduct research and collect statistics in order to discover, identify, and classify information relating to causes or prevention of losses;

(7) prepare and file policy forms and endorsements and consult with members, subscribers, and others relative to their use and application;

(8) collect, compile, and distribute past and current prices of individual insurers, if the information is made available to the general public;

(9) conduct research and collect information to determine the impact of benefit level changes on pure premium rates;

(10) prepare and distribute rules and rating values for the uniform experience rating plan; and

(11) calculate and disseminate individual risk premium modification factors. Individual risk premium modification factors may only be disseminated to:

(a) a licensed producer or ~~a plan No. 2 or plan No. 3~~ *an* insurer for the business of insurance only; and

(b) the department of labor and industry for regulatory purposes only. Individual employer payroll and loss information may be provided to a person other than the current licensed producer or ~~a plan No. 2 or plan No. 3~~ *an* insurer only after obtaining the employer's written permission."

Section 12. Section 33-16-1035, MCA, is amended to read:

"33-16-1035. Penalties — suspension of license. (1) The commissioner may impose upon a person or organization that violates 33-16-1020 *through 33-16-1023 or 33-16-1025* through 33-16-1036 a penalty of not more than $500 for each violation.

(2) If the commissioner determines that the violation is willful, the commissioner may impose a penalty of not more than $1,000 for each violation in addition to any other penalty provided by law.

(3) The commissioner may suspend the license of an insurer or an advisory organization that fails to comply with any order within the time set by the order or extension granted by the commissioner. The commissioner may not suspend a

license for failure to comply with an order until the time prescribed for appeal from the order has expired or, if appealed, until the order has been affirmed. The commissioner may determine the period of a suspension, which remains in effect for the period unless modified or rescinded or until the order upon which the suspension is based is modified, rescinded, or reversed.

(4) Unless a consent decree has been entered, a penalty may not be imposed nor may a license be suspended or revoked unless the commissioner, following a hearing, issues a written order with findings of fact. The hearing must be held at least 10 days after written notice to the person or organization specifying the alleged violation.

(5) A party aggrieved by an order or decision of the commissioner may, within 30 days after receiving the commissioner's notice, make a written request for a hearing."

Section 13. Section 39-71-2312, MCA, is amended to read:

"39-71-2312. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of directors of the state compensation insurance fund provided for in 2-15-1019.

(2) "Commissioner" means the commissioner of insurance as provided in 2-15-1903.

~~(2)~~*(3)* "Executive director" means the chief executive officer of the state compensation insurance fund.

(4) "Fiscal year" means for the purposes of state fund under Title 33 and this part the period from January 1 in one year to December 31 of that same year. A fiscal year for the purposes of assessments under Title 39, chapter 71, is as defined in 39-71-116.

(5) "Guaranteed market" means the insurer that is required to insure any employer in this state who requests to insure their liability for workers' compensation and occupational disease coverage and the insurer may not refuse to provide coverage unless an employer or the employer's principals have defaulted on an obligation and the default remains unsatisfied.

~~(3)~~*(6)* "State fund" means the state compensation insurance fund provided for in 39-71-2313 *that serves as the guaranteed market for this state*. It is also known as compensation plan No. 3 or plan No. 3."

Section 14. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund — powers and duties of the board — business plan required. (1) The management and control of the state fund is vested ~~solely~~ in the board*, subject to the statutory limitations imposed by this part*.

(2) The board is vested with full power, authority, and jurisdiction over the state fund *except that the board may not dissolve or liquidate the state fund*. ~~The~~ *To fulfill the objectives and intent of this part, the* board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the ~~state fund, either in the~~ administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier *and subject to the regulatory authority of the insurance commissioner in Title 33, except as provided in [section 1]*~~, in order to fulfill the objectives and intent of this part~~.

(3) ~~Bonds may not be issued by~~ *Neither* the board, the state fund, ~~or~~ *nor* the executive director *may issue bonds on behalf of the state fund*.

~~(3)~~*(4) (a)* The board shall adopt a business plan no later than ~~June 30~~ *December 31* for the next fiscal year.

(b) At a minimum, the plan must include:

~~(a)~~*(i)* specific goals for the fiscal year for financial performance. The standard for measurement of financial performances must include an evaluation of premium to surplus.

~~(b)~~*(ii)* specific goals for the fiscal year for operating performance. Goals must include but not be limited to specific performance standards for staff in the area of senior management, underwriting, and claims administration. Goals must, in general, maximize efficiency, economy, and equity as allowed by law.

~~(4)~~*(5)* The business plan must be available upon request to the general public for a fee not to exceed the actual cost of publication. However, performance goals relating to a specific employment position are confidential and not available to the public.

~~(5)~~*(6)* No sooner than ~~July~~ *January* 1 or later than ~~October~~ *March* 31, the board shall convene a public meeting to review the performance of the state fund, using the business plan for comparison of all the established goals and targets. The board shall publish, by ~~November~~ *May* 30 of each year, a report of the state fund's actual performance as compared to the business plan.

~~(6)~~*(7)* The state fund board of directors shall establish in-house guidelines for procurement of insurance-related services and shall include guidelines for the solicitation of submissions of information regarding insurance-related services from more than one vendor. The board may include guidelines for the circumstances when business necessity or expedience may preclude the solicitation of submissions from more than one vendor. The board may also include in the guidelines the exemptions to the procurement process in 18-4-132."

Section 15. Section 39-71-2316, MCA, is amended to read:

"39-71-2316. Powers of state fund. (1) For the purposes of carrying out its functions, the state fund may:

(a) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, as part of the coverage, provide related employers' liability insurance upon approval of the board;

(b) sue and be sued;

(c) enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(d) collect and disburse money received;

(e) ~~adopt classifications~~ *except as provided in subsection (1)(f), use the uniform classification system as required in 33-16-1023* and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting. ~~Premium rates for classifications may be adopted and changed only by using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After the rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund is required to belong to a licensed~~

~~workers' compensation advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, and may use the classifications of employment adopted by the designated workers' compensation advisory organization, as provided in Title 33, chapter 16, part 10, and corresponding rates as a basis for setting its own rates. Except as provided in Title 33, chapter 16, part 10, a workers' compensation advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, or other person may not, without first obtaining the written permission of the employer, use, sell, or distribute an employer's specific payroll or loss information, including but not limited to experience modification factors.~~

(f) continue the use of special classification codes that were in use prior to [the effective date of this act] for agriculture, municipalities, towns, cities, counties, and state agencies. The board shall file with the commissioner rates and supplementary rate information for these special classifications.

(g) use the uniform experience rating plan provided for in 33-16-1023, except upon approval of the board adopt experience modification thresholds for use by state fund for its insured employers;

~~(f)~~*(h)* pay the amounts determined to be due under a policy of insurance issued by the state fund;

~~(g)~~*(i)* hire personnel;

~~(h)~~*(j)* declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until adequate actuarially determined reserves are set aside.

~~(i)~~*(k)* adopt and implement one or more alternative personal leave plans pursuant to 39-71-2328;

~~(j)~~*(l)* upon approval of the board, contract with licensed resident insurance producers;

~~(k)~~*(m)* upon approval of the board, enter into agreements with licensed workers' compensation insurers, insurance associations, or insurance producers to provide workers' compensation coverage in other states to Montana-domiciled employers insured with the state fund;

~~(l)~~*(n)* upon approval of the board, expend funds for scholarship, educational, or charitable purposes;

~~(m)~~*(o)* upon approval of the board, including terms and conditions, provide employers coverage under the federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901, et seq., the federal Merchant Marine Act, 1920 (Jones Act), 46 U.S.C. 688, and the federal Employers' Liability Act, 45 U.S.C. 51, et seq.;

~~(n)~~*(p)* perform all functions and exercise all powers of a private insurance carrier that are necessary, appropriate, or convenient for the administration of the state fund.

(2) The state fund shall include a provision in every policy of insurance issued pursuant to this part that incorporates the restriction on the use and transfer of money collected by the state fund as provided for in 39-71-2320."

Section 16. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in state fund — payment of dividends. Subject to the provisions of 39-71-2316, if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary reserves and an appropriate surplus as determined by the

board in accordance with 39-71-2330, and if the excess may be refunded safely, then the board, after consultation with the independent actuary engaged pursuant to 39-71-2330, may declare a dividend. The ~~rules of the~~ state fund must prescribe the manner of payment to those employers who have paid premiums into the state fund in excess of liabilities."

Section 17. Section 39-71-2330, MCA, is amended to read:

"39-71-2330. Rate setting — surplus — multiple rating tiers. (1) The board has the authority to establish the rates to be charged by the state fund ~~for insurance~~ *and the supplementary rate information to determine the applicable premium as provided in 39-71-2311 and 39-71-2316 and shall file the rates and supplementary rate information with the commissioner as provided in Title 33, chapter 16*. The board shall engage the services of an independent actuary who is a member in good standing with the American academy of actuaries to develop and recommend actuarially sound rates. Rates must be set at amounts sufficient, when invested, to carry the estimated cost of all claims to maturity, to meet the reasonable expenses of conducting the business of the state fund, and to amass and maintain an excess of surplus over the amount produced by the national association of insurance commissioners' risk-based capital requirements for a casualty insurer.

(2) Because surplus is desirable in the insurance business, the board shall annually determine the level of surplus that must be maintained by the state fund pursuant to this section~~, but shall maintain a minimum surplus of 25% of annual earned premium~~. The state fund shall use the amount of the surplus above the risk-based capital requirements to secure the state fund against various risks inherent in or affecting the business of insurance and not accounted for or only partially measured by the risk-based capital requirements.

(3) The board may ~~implement~~ *establish* multiple rating tiers for classifications that take into consideration losses, premium size, and other factors relevant in placing an employer within a rating tier. *The board shall file any multiple rating tiers with the commissioner for review as provided in Title 33, chapter 16*."

Section 18. Section 39-71-2332, MCA, is amended to read:

"39-71-2332. Pooled risk safety group. (1) ~~The~~ *Subject to Title 33, chapter 16, the* state fund may establish one or more groups of individual policies in a pooled risk safety group to promote safety as a way to reduce losses among members of the pooled risk safety group.

(2) Each member of a pooled risk safety group must be eligible as provided in 39-71-2331 and must have an individual workers' compensation plan No. 3 policy. An individual policy may be included in only one group.

(3) The state fund shall annually establish the terms and conditions of the plan that defines the requirements of participation for a pooled risk safety group. The plan must include the criteria to be eligible for an aggregate return of premium and a method for apportioning the return of premium among members of the group.

(4) The aggregate record of the individual members of the pooled risk safety group is the basis for determining if the members of the pooled risk safety group qualify for a return on premiums."

Section 19. Section 39-71-2351, MCA, is amended to read:

"39-71-2351. Purpose of separation of state fund liability as of July 1, 1990, and of separate funding of claims before and on or after that date.

~~(1) An unfunded liability exists in the state fund. It has existed since at least the mid-1980s and has grown each year. There have been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated the problem somewhat, but the problem has not been solved.~~

~~(2)~~*(1)* The legislature has determined that it is necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the ~~insurer of last resort~~ *guaranteed market*. In *previous years of* making this insurance available, *and prior to July 1, 1990,* the state fund ~~has~~ incurred ~~the~~ *an* unfunded liability. The legislature ~~has~~ determined that the most cost-effective and efficient way to provide a source of funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability ~~is~~ *was* to separate the liability of the state fund on the basis of whether a claim is for an injury resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date.

~~(3)~~*(2)* The legislature further determines that in order to prevent the creation of a new unfunded liability with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of the state fund should be clarified and ~~legislative oversight~~ *regulation* of the state fund*, effective January 1, 2016, and subject to [section 1],* should be ~~increased~~ *under Title 33, which governs plan No. 2 and plan No. 3 insurers operating in this state*."

Section 20. Section 39-71-2361, MCA, is amended to read:

"39-71-2361. Legislative audit of state fund ~~— annual review of audit and rate review by insurance commissioner~~. The legislative auditor shall annually~~:~~

~~(1)~~ conduct or have conducted *by persons appointed under 5-13-305* a financial and compliance audit of the state fund, including its operations relating to claims for injuries resulting from accidents that occurred before July 1, 1990. The audit must include evaluations of ~~the claims reservation process,~~ the amounts reserved~~, and the current report of the state fund's actuary~~. The evaluations may be conducted by persons appointed under 5-13-305. Audit and evaluation costs are an expense of and must be paid by the state fund and must be allocated between those claims for injuries resulting from accidents that occurred before July 1, 1990, and those claims for injuries resulting from accidents that occur on or after that date.

~~(2) provide the results of the financial and compliance audit for operations related to claims for injuries resulting from accidents on or after July 1, 1990, as provided in subsection (1), and the rate review as provided in 39-71-2362 to the insurance commissioner. The insurance commissioner shall review the financial and compliance audit and rate review and report any concerns or recommendations based on the review to the governor, the legislative audit committee, and the economic affairs interim committee.~~"

Section 21. Section 39-71-2363, MCA, is amended to read:

"39-71-2363. Agency law — ~~submission of budget —~~ annual report. (1) The state fund is subject to state laws applying to state agencies, except as otherwise provided by law, and it is exempt from the provisions of The Legislative Finance Act in Title 5, chapter 12, and the provisions of Title 17, chapter 7, parts 1 through 4. The state fund may use the debt collection procedures provided in Title 17, chapter 4, part 1.

(2) (a) Except as provided in 2-15-2015, the executive director shall annually submit to the board for its approval an estimated budget of the entire expense of administering the state fund for the succeeding fiscal year, with due regard to

the business interests and contract obligations of the state fund. A copy of the approved budget must be delivered to the governor and the legislature.

~~(b) Upon approval of the estimated budget for the succeeding fiscal year, the state fund shall, no later than October 1 of each year, submit the approved annual budget for review to the legislative fiscal analyst. The budget must be submitted in an electronic format.~~

~~(c)~~*(b)* Dividends may not be included as administrative expenditures as provided in subsection (2)(a)~~,~~ but are a disbursement of excess surplus pursuant to 39-71-2323 after a determination by the state fund of income from operations.

(3) The board shall submit an annual financial report to the governor and to the legislature as provided in 5-11-210, indicating the business done by the state fund during the previous year and containing a statement of the estimated liabilities of the state fund as determined by an independent actuary."

Section 22. Repealer. The following sections of the Montana Code Annotated are repealed:

33-16-1024. Plan No. 3 membership in licensed workers' compensation advisory organization — reporting requirements.

39-71-2314. State fund subject to laws applying to state agencies.

39-71-2362. Authority of legislative auditor with respect to state fund.

Section 23. Transition. As part of the documentation required in [section 1(2)(b)], the state fund provided for in 39-71-2313 shall develop and submit to the insurance commissioner a transition plan to fully implement the designated advisory organization's requirements applicable under Title 33, chapter 16, part 10, to state fund. The plan must be submitted no later than January 1, 2016. The state fund and the insurance commissioner shall provide periodic updates to the economic affairs interim committee.

Section 24. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to [section 1].

(2) [Section 1] is also intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [section 1].

Section 25. Effective date — applicability date. [This act] is effective January 1, 2016, and applies to rates that are effective on or after July 1, 2016, for new and renewal policies.

Approved April 27, 2015

CHAPTER NO. 321

[SB 176]

AN ACT DESIGNATING THE SCOBEY SOIL SERIES AS MONTANA'S OFFICIAL STATE SOIL.

WHEREAS, Montana's official state symbols recognize the state's natural treasures; and

WHEREAS, the bitterroot, bluebunch wheatgrass, the western meadowlark, the sapphire, the blackspotted cutthroat trout, and the grizzly bear are all designated as state symbols; and

WHEREAS, Montana schoolchildren have initiated the designation of many state symbols, which has provided a valuable education about the symbol itself as well as about the legislative process; and

WHEREAS, agriculture is Montana's largest industry, generating in the state's economy more than $4.7 billion in services and products; and

WHEREAS, soil has been called the Earth's "living skin", sustaining not only Montana's agricultural industry but all of the state's plants, animals, and people; and

WHEREAS, legislatures in 21 states have designated a state soil to recognize the important role soil plays in their economies and environments; and

WHEREAS, Scobey soils are unique to Montana and occur on 1,261,000 acres mostly in the Golden Triangle and Hi-line areas of the state, producing high-quality wheat without irrigation, and are among the most productive of the 1,358 soils named and mapped in the state; and

WHEREAS, Scobey soils are scientifically and internationally recognized as fine, smectitic, frigid Aridic Argiustolls, representing the world's cool, semiarid grasslands; and

WHEREAS, Scobey soils from Montana are represented in the World Soil Museum and in a traveling exhibit developed by the Smithsonian Institution; and

WHEREAS, the Scobey soil series was named for the town of Scobey and was prominent in the first soil survey of the northern plains of Montana in 1929; and

WHEREAS, the 68th United Nations General Assembly declared 2015 the International Year of Soils; and

WHEREAS, 4th grade students from Longfellow Elementary School in Bozeman have researched the geological history, characteristics, and attributes of Scobey soils and their importance to Montana and believe them to be worthy of designation as a state symbol of Montana; and

WHEREAS, the Longfellow Elementary School students have shared their research and have solicited support for this designation from students who live in the Golden Triangle and Hi-line areas of the state.

Be it enacted by the Legislature of the State of Montana:

Section 1. State soil. The soil series known as Scobey, of the taxonomic class fine, smectitic, frigid Aridic Argiustolls, is the official Montana state soil.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 5, and the provisions of Title 1, chapter 1, part 5, apply to [section 1].

Approved April 27, 2015

CHAPTER NO. 322

[SB 191]

AN ACT PROVIDING AN EXCEPTION FROM THE MONTANA PROCUREMENT ACT FOR CONTRACTS CONCERNING CAPITAL IMPROVEMENTS AT STATE PARKS, STATE RECREATIONAL AREAS, STATE MONUMENTS, AND STATE HISTORIC SITES; AMENDING SECTIONS 18-4-313 AND 23-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-4-313, MCA, is amended to read:

"18-4-313. Contracts — terms, extensions, and time limits. (1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or 53-30-608; ~~and~~

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan~~.~~*; and*

(e) a contract for concessions or visitor services for a state park, state recreational area, state monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is made, subject to subsection (5).

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid within the life of the contract, or that where a proprietary interest is held, the concessionaire's interest in any capital improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes."

Section 2. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. The department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historic sites;

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

(c) with the consent of the board, enter into a contract pursuant to 18-4-313(2)(e).

~~(c)~~*(d)* accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and

~~(d)~~*(e)* lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

(2) The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or $100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state historic sites, state monuments, or any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 323

[SB 213]

AN ACT RELATING TO MONTANA SCHOOL SAFETY; ALLOWING SCHOOL DISTRICTS TEMPORARY AUTHORITY TO TRANSFER FUNDS INTO THE BUILDING RESERVE FUND FOR SCHOOL SAFETY AND SECURITY IMPROVEMENTS; AMENDING SECTION 20-1-401, MCA; AMENDING SECTIONS 9 AND 12, CHAPTER 364, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-401, MCA, is amended to read:

"20-1-401. Disaster drills to be conducted regularly — districts to identify disaster risks and adopt school safety plan. (1) As used in this part, "disaster" means the occurrence or imminent threat of damage, injury, or loss of life or property. Disaster drills must be conducted regularly in accordance with this part.

(2) A board of trustees shall identify the local hazards that exist within the boundaries of its school district and design and incorporate drills in its school safety plan *or emergency operations plan* to address those hazards.

(3) A board of trustees shall adopt a school safety plan ~~on or before July 1, 2014,~~ *or emergency operations plan* that addresses issues of school safety relating to school buildings and facilities, communications systems, and school grounds with the input from the local community and that addresses

coordination on issues of school safety, if any, with the county interdisciplinary child information and school safety team provided for in 52-2-211. The trustees shall certify to the office of public instruction ~~on or before July 1, 2014,~~ that a school safety plan *or emergency operations plan* has been adopted. The trustees shall review the school safety plan *or emergency operations plan* periodically and update the plan as determined necessary by the trustees based on changing circumstances pertaining to school safety. *Once the trustees have made the certification to the office of public instruction, the trustees may transfer funds pursuant to [section 2] to make improvements to school safety and security.*"

Section 2. Section 9, Chapter 364, Laws of 2013, is amended to read:

"**Section 9. Transfer of funds — improvements to school safety and security.** (1) ~~For fiscal year 2013 through fiscal year 2015 only, a~~ *A* school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school safety and security as follows:

(a) planning for improvements to school safety, including but not limited to the cost of services provided by architects, engineers, and other consultants;

(b) installing or updating locking mechanisms and ingress and egress systems at public school access points, including but not limited to systems for exterior egress doors and interior passageways and rooms, using contemporary technologies;

(c) installing or updating bullet-resistant windows and barriers; and

(d) installing or updating emergency response systems using contemporary technologies.

(2) Any transfers made pursuant to subsection (1) are not considered expenditures to be applied against budget authority. Any revenue transfers that are not encumbered for expenditures in compliance with subsection (1) by June 30, ~~2015~~ *2019*, must be transferred back to the originating fund from which the revenue was transferred.

(3) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the transferred funds."

Section 3. Section 12, Chapter 364, Laws of 2013, is amended to read:

"**Section 12. Termination.** [Section 9] terminates June 30, ~~2015~~ *2019*."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 324

[SB 216]

AN ACT ESTABLISHING FRAUD PREVENTION TRAINING AND FISCAL ACCOUNTABILITY REQUIREMENTS FOR CERTAIN MEDICAID IN-HOME CARE SERVICES; REQUIRING TRAINING AND EDUCATION IN FRAUD PREVENTION; REQUIRING REPORTING OF COST INFORMATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 53-6-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fraud prevention education — department responsibilities. (1) In an effort to prevent and reduce fraud in the Montana medicaid program, a provider of personal assistance or attendant services or supports shall provide training and continuing education to consumers and employees if the personal assistance or attendant services or supports are funded:

(a) as a medicaid state plan service;

(b) through a medicaid state plan option available to the state under 42 U.S.C. 1396n(k); or

(c) under a medicaid home and community-based services waiver for the elderly and disabled that is operated through a division of the department that administers long-term care services for senior citizens and individuals with physical disabilities.

(2) (a) The training must be presented in person whenever the provider:

(i) hires a new employee; or

(ii) enrolls a consumer to receive services.

(b) The provider shall require its employees and the consumers who are receiving services to review fraud prevention materials on an annual basis after completing the initial training.

(c) Each employee and consumer shall sign a document attesting to the fact that the employee or consumer received the in-person training or received and reviewed the fraud prevention materials.

(d) When the training involves services provided using a self-directed service model, the consumer may provide the training.

(3) The training and continuing education must include but is not limited to information on:

(a) activities that constitute fraud;

(b) ways to prevent fraud; and

(c) when and how to report fraud, including how to contact the medicaid fraud hotline.

(4) (a) The department and the medicaid fraud control unit provided for in 53-6-156 shall, in consultation with home and community-based services consumers, providers, and advocates, develop the elements to be included in the training.

(b) A provider required to provide training under this section may:

(i) develop training materials that meet the requirements developed by the department and the medicaid fraud control unit; or

(ii) use training materials approved by the department by rule.

(5) The department may adopt rules requiring other providers of medicaid home and community-based services that are provided in a person's home to provide the training required under this section.

(6) The department shall:

(a) review and approve fraud education materials; and

(b) monitor compliance with training requirements.

Section 2. Fiscal accountability for home and community-based services. (1) (a) A provider of personal assistance or attendant services or supports shall submit cost information to the department each year if the personal assistance or attendant services or supports are funded:

(i) as a state plan service;

(ii) through a medicaid state plan option available to the state under 42 U.S.C. 1396n(k); or

(iii) under a home and community-based services waiver for the elderly and disabled that is operated through a division of the department that administers long-term care services for senior citizens and individuals with physical disabilities.

(b) The information provided to the department must reflect costs incurred during the provider's most recent fiscal year.

(2) The department shall develop a standardized format for the information that includes the recognized expenditures incurred by providers.

(3) The department shall analyze cost information submitted by providers to determine at a minimum:

(a) the reasonable cost of providing the home and community-based services detailed in the report;

(b) the percentage of a provider's cost represented by payment of wages and benefits for direct-care employees; and

(c) the level of profit or loss that each provider incurred in delivering the service. The profit or loss must be determined by comparing the recognized cost of providing the service with the medicaid reimbursement provided for the same service.

(4) The department may adopt rules requiring other providers of medicaid home and community-based services that are provided in a person's home to submit the cost information required under this section.

Section 3. Section 53-6-402, MCA, is amended to read:

"53-6-402. Medicaid-funded home and community-based services — waivers — funding limitations — populations — services — providers — long-term care preadmission screening — powers and duties of department — rulemaking authority. (1) The department may obtain waivers of federal medicaid law in accordance with section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and administer programs of home and community-based services funded with medicaid money for categories of persons with disabilities or persons who are elderly.

(2) The department may seek and obtain any necessary authorization provided under federal law to implement home and community-based services for seriously emotionally disturbed children pursuant to a waiver of federal law as permitted by section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n(c). The home and community-based services system shall strive to incorporate the following components:

(a) flexibility in design of the system to attempt to meet individual needs;

(b) local involvement in development and administration;

(c) encouragement of culturally sensitive and appropriately trained mental health providers;

(d) accountability of recipients and providers; and

(e) development of a system consistent with the state policy as provided in 52-2-301.

(3) The department may, subject to the terms and conditions of a federal waiver of law, administer programs of home and community-based services to serve persons with disabilities or persons who are elderly who meet the level of care requirements for one of the categories of long-term care services that may be funded with medicaid money. Persons with disabilities include persons with

physical disabilities, chronic mental illness, developmental disabilities, brain injury, or other characteristics and needs recognized as appropriate populations by the U.S. department of health and human services. Programs may serve combinations of populations and subsets of populations that are appropriate subjects for a particular program of services.

(4) The provision of services to a specific population through a home and community-based services program must be less costly in total medicaid funding than serving that population through the categories of long-term care facility services that the specific population would be eligible to receive otherwise.

(5) The department may initiate and operate a home and community-based services program to more efficiently apply available state general fund money, other available state and local public and private money, and federal money to the development and maintenance of medicaid-funded programs of health care and related services and to structure those programs for more efficient and effective delivery to specific populations.

(6) The department, in establishing programs of home and community-based services, shall administer the expenditures for each program within the available state spending authority that may be applied to that program. In establishing covered services for a home and community-based services program, the department shall establish those services in a manner to ensure that the resulting expenditures remain within the available funding for that program. To the extent permitted under federal law, the department may adopt financial participation requirements for enrollees in a home and community-based services program to foster appropriate utilization of services among enrollees and to maintain fiscal accountability of the program. The department may adopt financial participation requirements that may include but are not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The financial participation requirements adopted by the department may vary among the various home and community-based services programs. The department, as necessary, may further limit enrollment in programs, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through a home and community-based services program when the department determines that expenditures for a program are reasonably expected to exceed the available spending authority.

(7) The department may consider the following populations or subsets of populations for home and community-based services programs:

(a) persons with developmental disabilities who need, on an ongoing or frequent basis, habilitative and other specialized and supportive developmental disabilities services to meet their needs of daily living and to maintain the persons in community-integrated residential and day or work situations;

(b) persons with developmental disabilities who are 18 years of age and older and who are in need of habilitative and other specialized and supportive developmental disabilities services necessary to maintain the persons in personal residential situations and in integrated work opportunities;

(c) persons 18 years of age and older with developmental disabilities and chronic mental illness who are in need of mental health services in addition to habilitative and other developmental disabilities services necessary to meet their needs of daily living, to treat the their mental illness, and to maintain the persons in community-integrated residential and day or work situations;

(d) children under 21 years of age who are seriously emotionally disturbed and in need of mental health and other specialized and supportive services to treat their mental illness and to maintain the children with their families or in other community-integrated residential situations;

(e) persons 18 years of age and older with brain injuries who are in need, on an ongoing or frequent basis, of habilitative and other specialized and supportive services to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(f) persons 18 years of age and older with physical disabilities who are in need, on an ongoing or frequent basis, of specialized health services and personal assistance and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(g) persons with human immunodeficiency virus (HIV) infection who are in need of specialized health services and intensive pharmaceutical therapeutic regimens for abatement and control of the HIV infection and related symptoms in order to maintain the persons in personal residential situations;

(h) persons with chronic mental illness who suffer from serious chemical dependency and who are in need of intensive mental health and chemical dependency services to maintain the persons in personal or other community-integrated residential situations;

(i) persons 65 years of age and older who are in need, on an ongoing or frequent basis, of health services, personal assistance, and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations; or

(j) persons 18 years of age and older with chronic mental illness who are in need, on an ongoing or frequent basis, of specialized health services and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations.

(8) For each authorized program of home and community-based services, the department shall set limits on overall expenditures and enrollment and limit expenditures as necessary to conform with the requirements of section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and the conditions placed upon approval of a program authorized through a waiver of federal law by the U.S. department of health and human services.

(9) A home and community-based services program may include any of the following categories of services as determined by the department to be appropriate for the population or populations to be served and as approved by the U.S. department of health and human services:

(a) case management services;

(b) homemaker services;

(c) home health aide services;

(d) personal care services;

(e) adult day health services;

(f) habilitation services;

(g) respite care services; and

(h) other cost-effective services appropriate for maintaining the health and well-being of persons and to avoid institutionalization of persons.

(10) Subject to the approval of the U.S. department of health and human services, the department may establish appropriate programs of home and

community-based services under this section in conjunction with programs that have limited pools of providers or with managed care arrangements, as implemented through 53-6-116 and as authorized under section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, or in conjunction with a health insurance flexibility and accountability demonstration initiative or other demonstration project as authorized under section 1115 of Title XI of the Social Security Act, 42 U.S.C. 1315.

(11) (a) The department may conduct long-term care preadmission screenings in accordance with section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r.

(b) Long-term care preadmission screenings are required for all persons seeking admission to a long-term care facility.

(c) A person determined through a long-term care preadmission screening to have an intellectual disability or a mental illness may not reside in a long-term care facility unless the person meets the long-term care level-of-care determination applicable to the type of facility and is determined to have a primary need for the care provided through the facility.

(d) The long-term care preadmission screenings must include a determination of whether the person needs specialized intellectual disability or mental health treatment while residing in the facility.

(12) The department may adopt rules necessary to implement the long-term care preadmission screening process as required by section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r. The rules must provide criteria, procedures, schedules, delegations of responsibilities, and other requirements necessary to implement long-term care preadmission screenings.

(13) The department shall adopt rules necessary for the implementation of each program of home and community-based services. The rules may include but are not limited to the following:

(a) the populations or subsets of populations, as provided in subsection (7), to be served in each program;

(b) limits on enrollment;

(c) limits on per capita expenditures;

(d) requirements and limitations for service costs and expenditures;

(e) eligibility categories criteria, requirements, and related measures;

(f) designation and description of the types and features of the particular services provided for under subsection (9);

(g) provider requirements and reimbursement;

(h) financial participation requirements for enrollees as provided in subsection (6);

(i) utilization measures;

(j) measures to ensure the appropriateness and quality of services to be delivered; and

(k) other appropriate provisions necessary to the administration of the program and the delivery of services in accordance with 42 U.S.C. 1396n and any conditions placed upon approval of a program by the U.S. department of health and human services.

(14) The department shall adopt rules for the provision of the fraud prevention training required under [section 1], including but not limited to establishing the elements that must be contained in fraud prevention education materials and the models that may be used for the training.

(15) The department shall adopt rules to carry out the cost reporting provisions of [section 2], including but not limited to the costs that a provider is required to report to the department, the format of the report, and the deadline for filing the report."

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [sections 1 and 2].

Approved April 27, 2015

CHAPTER NO. 325

[SB 229]

AN ACT EXTENDING THE DATE BY WHICH A PERSON OR COUNTY MAY APPLY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR A HISTORIC RIGHT-OF-WAY DEED AND EXTENDING THE TERMINATION DATE; AMENDING SECTION 77-1-130, MCA; AMENDING SECTIONS 2, 3, 4, 5, 6, AND 7, CHAPTER 325, LAWS OF 2011; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-130, MCA, is amended to read:

"77-1-130. (Temporary) Recognition of historic right-of-way — criteria for right-of-way deed — conditions — fees. (1) A person or a county may apply to the department for a historic right-of-way deed to provide access to the applicant's private property, to provide continuation of a county road, or to provide for authorization of existing utilities by filing an application with the department by October 1, ~~2015~~ *2021*, on a form prescribed by the department. An application must be accompanied by:

(a) an application fee of $50;

(b) a notarized affidavit:

(i) demonstrating that the applicant or the applicant's predecessor in interest used the right-of-way applied for before 1997 and that the use has continued to the present;

(ii) describing the purpose for which the right-of-way was used before 1997; and

(iii) demonstrating that the historic right-of-way applied for is the right-of-way demonstrated in the evidence provided in subsection (1)(c); and

(c) (i) aerial photographs taken by an agency of the United States demonstrating use of the right-of-way applied for; or

(ii) other evidence of the use of the right-of-way applied for.

(2) The department shall review an application and other evidence submitted pursuant to subsection (1) and shall issue a historic right-of-way deed in the name of the applicant if:

(a) the applicant pays the application fee provided in subsection (1)(a) and the fair market value of the historic right-of-way as provided in subsection (4);

(b) the applicant has shown by substantial evidence the matters required in subsections (1)(b) and (1)(c)(i) or (1)(c)(ii);

(c) the department has, if necessary, made a field inspection of the right-of-way applied for; and

(d) the deed is approved by the board.

(3) A historic right-of-way deed issued in the name of the applicant must contain the description of the property of the applicant to which it is appurtenant as provided in the application, and the right-of-way must thereafter be considered appurtenant to that dominant estate. A deed may be assigned by the applicant to the applicant's successor in interest with the approval of the department. The department may not withhold approval for any reason other than that the use of the historic right-of-way is contrary to subsection (5).

(4) (a) At the time of issuing the historic right-of-way deed, the department shall collect from the applicant the full market value of the acreage of the historic right-of-way.

(b) The amount collected pursuant to subsection (4)(a) must be deposited in the appropriate trust fund established for receipt of income from the land over which a historic right-of-way is granted.

(5) If application is made in accordance with this section, a historic right-of-way deed must be issued by the department, subject to the approval of the board, on the following terms:

(a) the right-of-way is only for the minimum width necessary, as negotiated by the department and the applicant; and

(b) the right-of-way is only for the physical condition of the road or utility facilities existing on the date the historic right-of-way deed is issued by the department.

(6) Issuance of a historic right-of-way deed pursuant to this section is exempt from the requirements of Title 22, chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2.

(7) The survey requirements of 77-2-102 may be waived by the department for the issuance of a historic right-of-way deed if the department determines that there is sufficient information available to define the boundaries of the right-of-way for the purposes of recording the easement.

(8) The department may attach conditions to a historic right-of-way deed necessary to ensure compliance with this chapter.

(9) For the purposes of this section, "historic right-of-way deed" means a document issued by the department granting to the applicant a nonexclusive easement over state land. (Terminates October 1, ~~2025—secs. 2 through 7, Ch. 325, L. 2011~~ *2031.*)"

Section 2. Section 2, Chapter 325, Laws of 2011, is amended to read:

"**Section 2.** Section 5, Chapter 461, Laws of 1997, is amended to read:

"**Section 5. Termination.** [This act] terminates October 1, ~~2003~~ *~~2025~~ 2031.*""

Section 3. Section 3, Chapter 325, Laws of 2011, is amended to read:

"**Section 3.** Section 6, Chapter 270, Laws of 2001, is amended to read:

"**Section 6.** Section 5, Chapter 461, Laws of 1997, is amended to read:

"**Section 5. Termination.** [This act] terminates October 1, ~~2003~~ *~~2011~~ ~~2025~~ 2031.*"""

Section 4. Section 4, Chapter 325, Laws of 2011, is amended to read:

"**Section 4.** Section 2, Chapter 57, Laws of 2005, is amended to read:

"**Section 2.** Section 5, Chapter 461, Laws of 1997, is amended to read:

"Section 5. Termination. [This act] terminates October 1, ~~2003~~ *~~2016~~ ~~2025~~ 2031.*"""

Section 5. Section 5, Chapter 325, Laws of 2011, is amended to read:

"**Section 5.** Section 3, Chapter 57, Laws of 2005, is amended to read:

"**Section 3.** Section 6, Chapter 270, Laws of 2001, is amended to read:

"Section 6. Section 5, Chapter 461, Laws of 1997, is amended to read:

"Section 5. Termination. [This act] terminates October 1, ~~2003~~ *2011* ~~*2016*~~ ~~*2025*~~ *2031*."""""

Section 6. Section 6, Chapter 325, Laws of 2011, is amended to read:

"**Section 6.** Section 4, Chapter 57, Laws of 2005, is amended to read:

"Section 4. Termination. [Section 1] terminates October 1, ~~2016~~ ~~*2025*~~ *2031*."""

Section 7. Section 7, Chapter 325, Laws of 2011, is amended to read:

"**Section 7. Termination.** [Section 1] terminates October 1, ~~2025~~ *2031*."

Section 8. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 326

[SB 230]

AN ACT PROVIDING A PUBLIC SCOPING PROCESS FOR CERTAIN LAND ACQUISITIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND AMENDING SECTION 87-1-218, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-218, MCA, is amended to read:

"87-1-218. Notice of proposed land acquisitions. (1) For all land acquisitions proposed pursuant to 87-1-209, the department shall provide notice to the board of county commissioners in the county where the proposed acquisition is located.

(2) The notice must be provided at least 30 days before the proposed acquisition appears before the commission or the board for its consent.

(3) The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the department;

(b) an estimate of the measures and costs the department plans to undertake in furtherance of the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission or the board and information on how the board of county commissioners may provide comment.

(4) For all land acquisitions of 640 acres or more proposed pursuant to 87-1-209, the department shall:

(a) conduct a public scoping process to identify issues and concerns as the initial phase of an environmental review pursuant to Title 75, chapter 1, part 2;

(b) provide the public with sufficient notice of the proposed acquisition and an opportunity to provide input on reasonable alternatives, mitigation alternatives, mitigation measures, issues, and potential impacts to be addressed in the environmental review; and

(c) respond to comments received during the public scoping process as part of the environmental review document."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 27, 2015

CHAPTER NO. 327

[SB 232]

AN ACT REVISING STREAM ACCESS LAWS ONLY TO REFLECT THE MAJORITY OPINION OF THE SUPREME COURT IN THE 1987 GALT DECISION; AMENDING SECTIONS 23-2-302 AND 23-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, in 1985, in response to court decisions on stream access, the Legislature enacted laws governing the recreational use of streams; and

WHEREAS, in 1987 the Montana Supreme Court declared unconstitutional certain provisions of the laws governing the recreational use of streams in the case of Galt v. St. No. 86-178; and

WHEREAS, these unconstitutional provisions remain as part of the Montana Code Annotated; and

WHEREAS, amendments to the law are necessary to remove these unconstitutional provisions.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-302, MCA, is amended to read:

"23-2-302. Recreational use permitted — limitations — exceptions. (1) Except as provided in subsections (2) through (5), all surface waters that are capable of recreational use may be so used by the public without regard to the ownership of the land underlying the waters.

(2) The right of the public to make recreational use of surface waters does not include, without permission or contractual arrangement with the landowner:

(a) the operation of all-terrain vehicles or other motorized vehicles not primarily designed for operation upon the water;

(b) the recreational use of surface waters in a stock pond or other private impoundment fed by an intermittently flowing natural watercourse;

(c) the recreational use of waters while diverted away from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3, except for impoundments or diverted waters to which the owner has provided public access;

(d) big game hunting ~~except by long bow or shotgun when specifically authorized by the commission~~;

(e) overnight camping ~~within sight of any occupied dwelling or within 500 yards of~~ *unless it is necessary for the enjoyment of the surface water and the campsite is not within sight of* any occupied dwelling *or the campsite is more than 500 yards from any occupied dwelling*, whichever is less;

(f) the placement or creation of any permanent duck blind, boat moorage, or any ~~seasonal or other objects within sight of or within 500 yards of an occupied dwelling, whichever is less; or~~ *other permanent object;*

(g) the placement or creation of any seasonal object, such as a duck blind or boat moorage, unless necessary for the enjoyment of that particular surface water and unless the seasonal objects are placed out of sight of any occupied dwelling or more than 500 yards from any occupied dwelling, whichever is less;

~~(g)~~*(h)* use of a streambed as a right-of-way for any purpose when water is not flowing ~~therein~~ *in the streambed*.

(3) The right of the public to make recreational use of class II waters does not include, without permission of the landowner:

(a) big game hunting;

(b) overnight camping;

(c) the placement or creation of any seasonal object; or

(d) other activities ~~which~~ *that* are not primarily water-related pleasure activities as defined in 23-2-301(10).

(4) The right of the public to make recreational use of surface waters does not grant any easement or right to the public to enter onto or cross private property in order to use ~~such~~ *those* waters for recreational purposes.

(5) The commission shall adopt rules pursuant to 87-1-303, in the interest of public health, public safety, or the protection of public and private property, governing recreational use of class I and class II waters. These rules must include the following:

(a) the establishment of procedures by which any person may request an order from the commission:

(i) limiting, restricting, or prohibiting the type, incidence, or extent of recreational use of a surface water; or

(ii) altering limitations, restrictions, or prohibitions on recreational use of a surface water imposed by the commission;

(b) provisions requiring the issuance of written findings and a decision whenever a request is made pursuant to the rules adopted under subsection (5)(a); and

(c) a procedure for the identification of streams within class II waters ~~which~~ *that* are not capable of recreational use or are capable of limited recreational use, and a procedure to restrict the recreational use to the actual capacity of the water.

(6) The provisions of this section do not affect any rights of the public with respect to state-owned lands that are school trust lands or any rights of lessees of ~~such~~ *those* lands."

Section 2. Section 23-2-311, MCA, is amended to read:

"23-2-311. Right to portage — establishment of portage route. (1) A member of the public making recreational use of surface waters may, above the ordinary high-water mark, portage around barriers in the least intrusive manner possible, avoiding damage to the landowner's land and violation of the landowner's rights.

(2) A landowner may create barriers across streams for purposes of land or water management or to establish land ownership as otherwise provided by law. If a landowner erects a structure that does not interfere with the public's use of the surface waters, the public may not go above the ordinary high-water mark to portage around the structure.

(3) (a) A portage route around or over a barrier may be established to avoid damage to the landowner's land and violation of the landowner's rights, as well as to provide a reasonable and safe route for the recreational user of the surface waters.

(b) A portage route may be established when either a landowner or a member of the recreating public submits a request to the supervisors that a route be established.

(c) Within 45 days of the receipt of a request, the supervisors shall, in consultation with the landowner and a representative of the department, examine and investigate the barrier and the adjoining land to determine a reasonable and safe portage route.

(d) Within 45 days of the examination of the site, the supervisors shall make a written finding of the most appropriate portage route.

(e) The cost of establishing the portage route around artificial barriers must be borne by the ~~involved landowner, except for~~ *department, including* the *cost of* construction of notification signs of the route~~, which is the responsibility of the department. The cost of establishing a portage route around artificial barriers not owned by the landowner on whose land the portage route will be placed must be borne by the department~~.

(f) Once the route is established, the department has the exclusive responsibility to maintain the portage route at reasonable times agreeable to the landowner. The department shall post notices on the stream of the existence of the portage route and the public's obligation to use it as the exclusive means around a barrier.

(g) If either the landowner or the recreationist disagrees with the route described in subsection (3)(e), the person may petition the district court to name a three-member arbitration panel. The panel must consist of an affected landowner, a member of an affected recreational group, and a member selected by the two other members of the arbitration panel. The arbitration panel may accept, reject, or modify the supervisors' finding under subsection (3)(d).

(h) The determination of the arbitration panel is binding upon the landowner and upon all parties that use the water for which the portage is provided. Costs of the arbitration panel, computed as for jurors' fees under 3-15-201, must be borne by the contesting party or parties. All other parties shall bear their own costs.

(i) The determination of the arbitration panel may be appealed within 30 days to the district court.

(j) Once a portage route is established, the public shall use the portage route as the exclusive means to portage around or over the barrier.

(4) This part does not address the issue of natural barriers or portage around the barriers, and this part does not make the portage lawful or unlawful."

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 328

[SB 318]

AN ACT REVISING LAWS RELATED TO NO CONTACT ORDERS; PROVIDING THAT A NO CONTACT ORDER MAY BE ISSUED FOR AGGRAVATED ASSAULT OR ASSAULT WITH A WEAPON COMMITTED AGAINST A PARTNER OR FAMILY MEMBER; PROVIDING THAT A PERSON MAY NOT BE RELEASED ON BAIL WITHOUT APPEARING BEFORE A JUDGE WHEN THE PERSON IS CHARGED WITH VIOLATING A NO CONTACT ORDER; AND AMENDING SECTIONS 45-5-209, 46-6-311, AND 46-9-302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-209, MCA, is amended to read:

"45-5-209. Partner or family member assault — no contact order — notice — violation of order — penalty. (1) A court may issue a standing no contact order and direct law enforcement to serve the order on ~~all defendants~~ *a defendant* charged with *or arrested for* a violation of 45-5-206 *or, if the victim is a partner or family member of the defendant, a violation of 45-5-202 or 45-5-213*. The court order may specify conditions necessary to enhance the safety of any protected person. The court-ordered conditions may include prohibiting the defendant from contacting the protected person in person, by a third party, by telephone, by electronic communication, as defined in 45-8-213, and in writing. The court may impose up to a 1,500-foot restriction on the defendant to stay away from the protected person's location.

(2) Notice of the no contact order must be given orally and in writing by a peace officer at the time that the offender is charged with *or arrested for* a violation of 45-5-206 *or, if the victim is a partner or family member of the defendant, a violation of 45-5-202 or 45-5-213*. One copy of the order must be given to the defendant, and one copy must be filed with the court.

(3) The charge of a violation of 45-5-206 *or, if the victim is a partner or family member of the defendant, a violation of 45-5-202 or 45-5-213* must be supported by a peace officer's affidavit of probable cause.

(4) The no contact order issued at the time that the defendant is charged with *or arrested for* a violation of 45-5-206 *or, if the victim is a partner or family member of the defendant, a violation of 45-5-202 or 45-5-213* is effective for 72 hours or until the defendant makes the first appearance in court.

(5) The court order must state:

"You have been charged with *or arrested for* an assault on a partner or family member. You are not allowed to have contact with _____ _____ (list names). You may not _____. Violation of this no contact order is a criminal offense under 45-5-209, MCA, and may result in your arrest. You may be arrested even if the person protected by the no contact order invites or allows you to violate the prohibitions. This order lasts 72 hours or until the court continues or changes the order."

(6) The court shall review and amend, if appropriate, the no contact order at the defendant's first appearance.

(7) A no contact order may be issued by a court with jurisdiction over violations of 45-5-206 *or, if the victim is a partner or family member of the defendant, violations of 45-5-202 or 45-5-213* at the time of the defendant's arraignment or at any other appearance of the defendant, including sentencing.

The no contact order must be in writing. A copy of the no contact order must be given to the defendant when it is issued by the court. The court order shall specify protected persons and prohibited contact, including but not limited to the restriction mentioned in subsection (1).

(8) (a) A person commits the offense of violation of a no contact order if the person, with knowledge of the order, purposely or knowingly violates any provision of any order issued under this section.

(b) Each contact or attempt to make contact with each protected person, directly or indirectly, is a separate offense. Consent of the protected person to prohibited contact is not a defense. A protected person may not be charged with a violation of a no contact order.

(c) An offender convicted of violation of a no contact order shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(9) As used in this section, the following definitions apply:

(a) "No contact order" means a court order that prohibits a defendant charged with or convicted of an assault on a partner or family member from contacting a protected person.

(b) "Partner" or "family member" has the meaning provided in 45-5-206.

(c) "Protected person" means a victim of a partner or family member assault listed in a no contact order."

Section 2. Section 46-6-311, MCA, is amended to read:

"46-6-311. Basis for arrest without warrant — arrest of predominant aggressor — no contact order. (1) A peace officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest.

(2) (a) The summoning of a peace officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim.

(b) When a peace officer responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine who is the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor, the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor:

(i) the prior history of violence between the partners or family members, if information about the prior history is available to the officer;

(ii) the relative severity of injuries received by each person;

(iii) whether an act of or threat of violence was taken in self-defense;

(iv) the relative sizes and apparent strength of each person;

(v) the apparent fear or lack of fear between the partners or family members; and

(vi) statements made by witnesses.

(3) If a judge has issued a standing order as provided in 45-5-209, a peace officer shall give a defendant charged with *or arrested for* partner or family

member assault *or a violation of 45-5-202 or 45-5-213, if the victim is a partner or family member of the defendant,* both written and verbal notice of the no contact order issued pursuant to 45-5-209. The notice must include specific conditions as ordered by the court."

Section 3. Section 46-9-302, MCA, is amended to read:

"46-9-302. Bail schedule — acceptance by peace officer. (1) A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:

(a) any assault on a partner or family member, as partner or family member is defined in 45-5-206;

(b) stalking, as defined in 45-5-220; ~~or~~

(c) violation of an order of protection, as defined in 45-5-626*; or*

(d) violation of a no contact order, as defined in 45-5-209.

(2) A peace officer may:

(a) accept bail on behalf of a judge:

(i) in accordance with the bail schedule established under subsection (1); or

(ii) whenever the warrant of arrest specifies the amount of bail; or

(b) with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4).

(3) Whenever a peace officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt to the peace officer for the bail delivered.

(4) Whenever a peace officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The peace officer shall deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give the peace officer a receipt acknowledging delivery of the offender's driver's license to the court. After the filing of the complaint and the appearance of the defendant, the judge shall assume jurisdiction and may extend the date of the driving permit for a period of up to 6 months from the defendant's initial appearance date.

(5) The judge shall return a driver's license that has been accepted in lieu of bail to a defendant:

(a) after the required bail has been posted or there has been a final determination of the charge; and

(b) if the defendant pleaded guilty or was convicted, after a $25 administrative fee has been paid to the court."

Approved April 27, 2015

CHAPTER NO. 329

[SB 335]

AN ACT REVISING THE COMPENSATION FOR COUNTY TAX APPEAL BOARD MEMBERS; AND AMENDING SECTIONS 15-2-201 AND 15-15-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-2-201, MCA, is amended to read:

"15-2-201. Powers and duties. (1) It is the duty of the state tax appeal board to:

(a) prescribe rules for the tax appeal boards of the different counties in the performance of their duties and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all invited county tax appeal board members to attend if possible, and the cost of their attendance must be paid from the appropriation of the state tax appeal board;

(b) grant, at its discretion, whenever good cause is shown and the need for the hearing is not because of taxpayer negligence, permission to a county tax appeal board to meet beyond the normal time period provided for in 15-15-101~~(2)~~*(4)* to hear an appeal;

(c) hear appeals from decisions of the county tax appeal boards;

(d) hear appeals from decisions of the department of revenue in regard to business licenses, property assessments, taxes, except determinations that an employer-employee relationship existed between the taxpayer and individuals subjecting the taxpayer to the requirements of chapter 30, part 25, and penalties.

(2) Oaths to witnesses in any investigation by the state tax appeal board may be administered by a member of the board or the member's agent. If a witness does not obey a summons to appear before the board or refuses to testify or answer any material questions or to produce records, books, papers, or documents when required to do so, that failure or refusal must be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to punish the witness for the neglect or refusal. A person who testifies falsely in any material matter under consideration by the board is guilty of perjury and punished accordingly. Witnesses attending shall receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the board.

(3) The state tax appeal board also has the duties of an appeal board relating to other matters as may be provided by law."

Section 2. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board — meetings and compensation. (1) The board of county commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve.

(2) (a) The members receive compensation ~~of $45 a day~~ *as provided in subsection (2)(b)* and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation must be paid from the appropriation to the state tax appeal board.

(b) (i) The daily compensation for a member is as follows:

(A) $45 for 4 hours of work or less; and

(B) $90 for more than 4 hours of work.

(ii) For the purpose of calculating work hours in this subsection (2)(b), work includes hearing tax appeals, deliberating with other board members, and attending meetings called by the state tax appeal board.

(3) Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the state tax appeal board.

~~(2)~~*(4)* The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the board. The county tax appeal board shall continue in session from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department until the business of hearing protests is disposed of and, as provided in 15-2-201, may meet after December 31.

~~(3)~~*(5)* In counties that have appointed more than three members to the county tax appeal board, only three members shall hear each appeal. The presiding officer shall select the three members hearing each appeal.

~~(4)~~*(6)* In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of the current tax year.

~~(5)~~*(7)* Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406."

Approved April 27, 2015

CHAPTER NO. 330

[SB 347]

AN ACT REVISING WORKERS' COMPENSATION COVERAGE OPTIONS FOR VOLUNTEER EMERGENCY MEDICAL TECHNICIANS, NONTRANSPORTING MEDICAL UNITS, AND CERTAIN AMBULANCE SERVICES; AMENDING SECTION 39-71-118, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named

insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b)~~, a volunteer emergency medical technician as defined in subsection (10),~~ or a volunteer firefighter as defined in 7-33-4510. ~~An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee under the provisions of this chapter a volunteer emergency medical technician.~~

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than $900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than $200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) ~~With the approval of the insurer, an~~ *An* ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. *The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.*

(b) ~~In the event of~~ *If there is* an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency medical technician, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency medical technician who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

(f) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 27, 2015

CHAPTER NO. 331

[SB 356]

AN ACT REVISING LAWS RELATED TO LAW ENFORCEMENT; AND PROVIDING THAT THE CURRICULUM FOR THE MONTANA LAW ENFORCEMENT ACADEMY MUST INCLUDE INSTRUCTION ON THE CONSTITUTIONAL RIGHTS OF CITIZENS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-10-202, MCA, is amended to read:

"44-10-202. Powers and duties of department. The department of justice shall have the power and it shall be its duty to:

(1) establish qualifications for admission to the academy;

(2) select from among qualified applicants those officers and other individuals who are to attend the academy each year;

(3) *except as provided in subsection (11),* determine the curriculum and methods of training for officers and other individuals attending the academy;

(4) select and hire staff as it considers necessary to implement this chapter;

(5) establish rules for the conduct of officers and other individuals enrolled at the academy;

(6) award appropriate certificates to officers and other individuals who successfully complete their training;

(7) provide for the keeping of permanent records of enrollment, attendance, and graduation and other records as the department considers necessary;

(8) make a yearly report in writing of the activities of the academy. Copies of this report shall be sent to the governor, attorney general, and secretary of state.

(9) do all other things necessary and desirable for the establishment and operation of the academy not inconsistent with this chapter or the constitution and statutes of the state of Montana;

(10) accept and expend grants from federal, state, county, and city governments or private persons, associations, or corporations.*; and*

(11) the curriculum must include a specific section of instruction on constitutional law emphasizing the rights of the people as set forth in the bill of rights of the United States constitution and the rights contained in Article II of the Montana constitution."

Approved April 26, 2015

CHAPTER NO. 332

[SB 368]

AN ACT REQUIRING THAT CERTAIN PIPELINE INFORMATION BE COLLECTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND MADE AVAILABLE ON A WEBSITE; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PROVIDE A LINK TO THE INFORMATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Pipeline reporting requirements. (1) By January 1, 2016, the department of environmental quality shall compile information in accordance with subsection (2) for all pipelines that intersect or cross a navigable river in Montana.

(2) The compilation, at a minimum, should include to the extent the data is available from the federal government or another source:

(a) standard pipeline identification information, as determined by the department;

(b) a pipeline's size;

(c) the commodity transported by the pipeline;

(d) navigable rivers intersected or crossed by the pipeline;

(e) the distance between shutoff valves that isolate the segment of a pipeline that crosses a navigable river from the balance of the pipeline;

(f) the county in which a pipeline crosses a navigable river; and

(g) the depth of coverage when the pipeline was installed.

(3) (a) The department of environmental quality shall make the information collected in accordance with subsection (2) available to the public on the agency's website.

(b) The department of natural resources and conservation shall provide a link on its website to the information provided by the department of environmental quality in accordance with subsection (3)(a).

(4) For the purposes of this section, "pipeline" means a pipeline greater than or equal to 8 inches in inside diameter that transports oil, gas, or liquid.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, and the provisions of Title 75 apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 27, 2015

CHAPTER NO. 333

[SB 379]

AN ACT REVISING LAWS TO REQUIRE THE STATE FUND TO SUBMIT A REPORT ON ITS BUDGET TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; AMENDING SECTION 5-5-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-223, MCA, is amended to read:

"5-5-223. Economic affairs interim committee. *(1)* The economic affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

~~(1)~~*(a)* department of agriculture;

~~(2)~~*(b)* department of commerce;

~~(3)~~*(c)* department of labor and industry;

~~(4)~~*(d)* department of livestock;

~~(5)~~*(e)* office of the state auditor and insurance commissioner;

~~(6)~~*(f)* office of economic development;

~~(7)~~*(g)* the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019; and

~~(8)~~*(h)* the division of banking and financial institutions provided for in 32-1-211.

(2) The state compensation insurance fund must annually provide a report on its budget as approved by the state compensation insurance fund board of directors to the committee."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 334

[SB 47]

AN ACT INCREASING ASSESSMENTS FOR FIRE PROTECTION ON OWNERS OF CLASSIFIED FOREST LAND; AMENDING SECTION 76-13-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-13-201, MCA, is amended to read:

"76-13-201. Costs for protection from fire. (1) An owner of land classified as forest land that is within a wildland fire protection district or that is otherwise under contract for fire protection by a recognized agency is subject to the fees for fire protection provided in this section.

(2) The department shall provide fire protection to the land described in subsection (1) at a cost to the landowner of not more than ~~$45~~ *$50* for each landowner in the protection district and of not more than an additional ~~25~~ *30* cents per acre per year for each acre in excess of 20 acres owned by each landowner in each protection district, as necessary to yield the amount of money provided for in 76-13-207. Assessment, payment, and collection of the fire protection costs must be in accordance with 76-13-207.

(3) Other charges may not be assessed to a participating landowner except in cases of proved negligence on the part of the landowner or the landowner's agent or in the event of a violation of 50-63-103."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 335

[SB 52]

AN ACT GENERALLY REVISING CAPTIVE INSURANCE LAWS; PROVIDING A PENALTY FOR FAILURE TO FILE ANNUAL STATEMENTS; CLARIFYING LANGUAGE REGARDING CERTIFICATES OF AUTHORITY FOR CAPTIVE INSURERS; ALLOWING FOR A PRO RATA DISTRIBUTION OF TAXES IN THE YEAR OF CLOSURE; CLARIFYING TAXATION OF SERIES MEMBERS OF SPECIAL PURPOSE CAPTIVES; AMENDING SECTIONS 33-28-101, 33-28-102, 33-28-104, 33-28-105, 33-28-108, 33-28-109, 33-28-201, 33-28-206, 33-28-207, 33-28-301, AND 33-28-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-28-101, MCA, is amended to read:

"33-28-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured, or a member by virtue of common ownership, control, operation, or management.

(2) "Association" means any legal association of sole proprietorships or business entities that has been in continuous existence for at least 1 year unless the 1-year requirement is waived by the commissioner and the members of which collectively, or the association itself:

(a) owns, controls, or holds with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;

(b) has complete voting control over an association captive insurance company incorporated as a mutual insurer; ~~or~~

(c) constitutes all of the subscribers of an association captive insurance company formed as a reciprocal insurer~~.~~*; or*

(d) owns, controls, or holds with power to vote all of the outstanding ownership interests of an association captive insurance company organized as a limited liability company.

(3) "Association captive insurance company" means any company that insures risks of the members and the affiliated companies of members.

(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company ~~licensed~~ *authorized* by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state.

(7) (a) "Business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity formed by an organizational document.

(b) The term does not include a sole proprietor.

(8) "Captive insurance company" means any pure captive insurance company, association captive insurance company, protected cell captive insurance company, incorporated cell captive insurance company, special

purpose captive insurance company, or industrial insured captive insurance company formed or ~~licensed~~ *authorized* under the provisions of this chapter.

(9) "Captive reinsurance company" means a captive insurance company ~~licensed~~ *authorized* in this state that reinsures the risk ceded by any other insurer.

(10) "Captive risk retention group" means a captive insurance risk retention group formed under the laws of this chapter and pursuant to Title 33, chapter 11.

(11) "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent.

(12) (a) "Controlled unaffiliated business entity" means a business entity or sole proprietorship:

(i) that is not in a parent's corporate system consisting of the parent and affiliated companies;

(ii) that has an existing, controlling contractual relationship with the parent or an affiliated company; and

(iii) whose risks are managed by a pure captive insurance company.

(b) The commissioner may promulgate rules that further define a controlled unaffiliated business entity.

(13) "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance that is in excess of a specified per-incident or aggregate limit established by the commissioner.

(14) "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state.

(15) "Incorporated cell" means a protected cell of an incorporated cell captive insurance company that is organized as a corporation or other legal entity separate from the incorporated cell captive insurance company.

(16) "Incorporated cell captive insurance company" means a protected cell captive insurance company that is established as a corporate or other legal entity separate from its incorporated cell that is organized as a separate legal entity.

(17) "Industrial insured" means an insured:

(a) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) who has at least 25 full-time employees.

(18) "Industrial insured captive insurance company" means any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(19) "Industrial insured group" means any group that meets either of the following:

(a) the group collectively:

(i) owns, controls, or holds with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(ii) has complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) the group is a captive risk retention group.

(20) "Member" means a sole proprietorship or business entity that belongs to an association.

(21) "Mutual insurer" means a business entity without capital stock and with a governing body elected by the policyholders.

(22) "Organizational document" means articles of incorporation, articles of organization, a partnership agreement, a subscribers' agreement, a charter, or any other document that establishes a business entity.

(23) "Parent" means a sole proprietorship, business entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding voting securities of a captive insurance company.

(24) "Participant" means a sole proprietorship or business entity and any affiliates that are insured by a protected cell captive insurance company in which the losses of the participant are limited through a participant contract to the participant's share of the assets of one or more protected cells identified in the participant contract.

(25) "Participant contract" means a contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each participant in the contract.

(26) "Protected cell" means a separate account established by a protected cell captive insurance company formed or ~~licensed~~ *authorized* under the provisions of this chapter, in which an identified pool of assets and liabilities are segregated and insulated, as provided in this chapter, from the remainder of the protected cell captive insurance company's assets and liabilities in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive insurance company with respect to the participants as set forth in the participant contracts.

(27) "Protected cell assets" means all assets, contract rights, and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(28) "Protected cell captive insurance company" means any captive insurance company:

(a) in which the minimum capital and surplus required by applicable law are provided by one or more sponsors;

(b) that is formed or ~~licensed~~ *authorized* under the provisions of this chapter;

(c) that insures the risks of separate participants through participant contracts; and

(d) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.

(29) "Protected cell liabilities" means all liabilities and other obligations identified with and attributable to a specific protected cell of a protected cell captive insurance company.

(30) "Pure captive insurance company" means any company that insures risks of its parent and affiliated companies and controlled unaffiliated business entities.

(31) "Sole proprietorship" means an individual doing business in a noncorporate form.

(32) "Special purpose captive insurance company" means a captive insurance company that is formed or ~~licensed~~ *authorized* under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.

(33) "Sponsor" means any entity that meets the requirements of 33-28-301 and 33-28-302 and is approved by the commissioner to provide all or part of the capital and surplus required by the applicable law and to organize and operate a protected cell captive insurance company."

Section 2. Section 33-28-102, MCA, is amended to read:

"33-28-102. ~~Licensing — authority~~ *Certificates of authority — lines of business — definition.* (1) A captive insurance company, when permitted by its organizational document, may apply to the commissioner for a ~~license~~ *certificate of authority* to provide property insurance, casualty insurance, life insurance, disability income insurance, surety insurance, marine insurance, and health insurance coverage or a group health plan as defined in 33-22-140, except that:

(a) a pure captive insurance company may not insure any risks other than those of its parent and affiliated companies and controlled unaffiliated business entities;

(b) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(c) an association captive insurance company may not insure any risks other than those of the members or affiliated companies of members;

(d) a special purpose captive insurance company may not provide insurance or reinsurance for risks unless approved by the commissioner;

(e) a captive insurance company or a branch captive insurance company may not:

(i) provide personal lines of insurance, including but not limited to motor vehicle or homeowner's insurance coverage or any component of those coverages;

(ii) accept or cede reinsurance except as provided in 33-28-203;

(iii) provide health insurance coverage or a group health plan unless the captive insurance company or branch captive insurance company is only providing health insurance coverage or a group health plan for the parent company and its affiliated companies; or

(iv) write workers' compensation insurance on a direct basis; and

(f) a protected cell captive insurance company may not insure any risks other than those of its participants.

(2) A captive insurance company may not write any insurance business unless:

(a) it first obtains from the commissioner a ~~license authorizing it to do insurance business in this state~~ *certificate of authority under this section*;

(b) its board of directors, board of managing members, or a reciprocal insurer's subscribers' advisory committee holds at least one meeting each year in this state;

(c) it maintains its principal place of business in this state; and

(d) it appoints a registered agent to accept service of process, files the name and contact information and any subsequent changes regarding the registered agent with the commissioner, and agrees that whenever the registered agent cannot be found with reasonable diligence, the commissioner's office may act as an agent of the captive insurance company with respect to any action or proceeding and may be served in accordance with 33-1-603.

(3) (a) Before receiving a ~~license~~ *certificate of authority*, a captive insurance company shall:

(i) with respect to a captive insurance company formed as a business entity:

(A) file with the commissioner a certified copy of its organizational documents, a statement under oath of an officer of the business entity showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require;

(ii) with respect to a captive insurance company formed as a reciprocal insurer:

(A) file with the commissioner a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require.

(b) If there is a subsequent material change in any of the items in the description provided for in subsection (3)(a), the captive insurance company shall submit to the commissioner for approval an appropriate revision and may not offer any additional kinds of insurance until the commissioner approves a revision of the description. The captive insurance company shall inform the commissioner of any change in rates within 30 days of the adoption of the change.

(c) In addition to the information required by subsections (3)(a) and (3)(b), each applicant captive insurance company shall file with the commissioner evidence of the following:

(i) the amount and liquidity of its assets relative to the risks to be assumed;

(ii) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(iii) the overall soundness of its plan of operation;

(iv) the adequacy of the loss prevention programs of its parent, members, or industrial insureds as applicable; and

(v) any other factors considered relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(d) In addition to the information required by this section, each applicant that is a protected cell captive insurance company shall file with the commissioner the following:

(i) a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the commissioner and how it will report the experience to the commissioner;

(ii) a statement acknowledging that all financial records of the protected cell captive insurance company, including records pertaining to any protected cells, must be made available for inspection or examination by the commissioner or the commissioner's designated agent;

(iii) all contracts or sample contracts between the protected cell captive insurance company and any participants; and

(iv) evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

(e) Information submitted pursuant to this subsection (3) must remain confidential and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except that:

(i) the information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a showing by the party seeking to discover the information that the information sought is relevant to and necessary for the furtherance of the action or case, the information sought is unavailable from other nonconfidential sources, and a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner;

(ii) the commissioner may, in the commissioner's discretion, disclose the information to a public officer having jurisdiction over the regulation of insurance in another state or to a public official of the federal government, as long as the public official agrees in writing to maintain the confidentiality of the information and the laws of the state in which the public official serves, if applicable, require the information to be and to remain confidential.

(4) (a) Each captive insurance company shall pay to the commissioner a nonrefundable fee of $200 for the examining, investigating, and processing of its application ~~for license~~, and the commissioner is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged to the applicant.

(b) The provisions of Title 33, chapter 1, part 4, apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a ~~license~~ fee for the year of registration and a renewal fee for each subsequent year of $300. *Individual series of members as defined in 35-8-102 of a limited liability company formed as a special purpose captive insurance company, incorporated protected cells, and unincorporated protected cells are not required to pay the registration or renewal fee under this subsection (4)(b).*

(5) If the commissioner is satisfied that the documents and statements that the applicant captive insurance company has filed comply with the provisions of this chapter and applicable provisions of Title 33, the commissioner may grant a ~~license~~ *certificate* authorizing the company to do insurance business in this

state. The ~~license~~ *certificate* is effective until March 1 of each year and may be renewed upon proper compliance with this chapter."

Section 3. Section 33-28-104, MCA, is amended to read:

"33-28-104. Minimum capital surplus — letter of credit. (1) A captive insurance company may not be issued a ~~license~~ *certificate of authority* unless it possesses and maintains unimpaired paid-in capital and surplus of:

(a) in the case of a pure captive insurance company, not less than $250,000;

(b) in the case of an industrial insured captive insurance company, including a captive risk retention group, not less than $500,000;

(c) in the case of an association captive insurance company, not less than $500,000;

(d) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro forma documents, including the nature of the risks to be insured;

(e) in the case of a protected cell captive insurance company, not less than $500,000. However, if the protected cell captive insurance company does not assume any risks, the risks insured by the protected cells are homogenous, and if there are not more than 10 cells, the commissioner may reduce the amount required in this subsection (1)(e) to an amount not less than $250,000.

(f) in the case of a branch captive insurance company, not less than the applicable amount of capital and surplus required in subsections (1)(a) through (1)(e), as determined based upon the organizational form of the foreign captive insurance company. The minimum capital and surplus must be jointly held by the commissioner and the branch captive insurance company in a bank of the federal reserve system approved by the commissioner.

(g) in the case of a captive reinsurance company, not less than 50% of the capital that would be required for that type of captive insurance company.

(2) The commissioner may require additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(3) Capital and surplus may be in the form of cash, cash equivalent, or an irrevocable letter of credit *on a form prescribed by the commissioner and* issued by a bank chartered by the state of Montana or a member bank of the federal reserve system and approved by the commissioner."

Section 4. Section 33-28-105, MCA, is amended to read:

"33-28-105. Formation of captive insurance companies. (1) A captive insurance company must be formed or organized as a business entity as provided in this chapter.

(2) An association captive insurance company or an industrial insured captive insurance company may be:

(a) incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(b) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of its association or associations;

(c) organized as a reciprocal insurer under Title 33, chapter 5; or

(d) organized as a limited liability company.

(3) A captive insurance company incorporated or organized in this state must be incorporated or organized by at least one incorporator or organizer who is a resident of this state.

(4) (a) In the case of a captive insurance company formed as a business entity and before the organizational documents are transmitted to the secretary of state, the organizers shall file a copy of the proposed organizational documents and a petition with the commissioner requesting the commissioner to issue a certificate that finds that the establishment and maintenance of the proposed business entity will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of any officers, directors, or managing members; and

(iii) any other factors that the commissioner considers appropriate.

(b) If the commissioner does not issue a certificate or finds that the proposed organizational documents of the captive insurance company do not meet the requirements of the applicable laws, including but not limited to 33-2-112, the commissioner shall refuse to approve the draft of the organizational documents and shall return the draft to the proposed organizers, together with a written statement explaining the refusal.

(c) If the commissioner issues a certificate and approves the draft organizational documents, the commissioner shall forward the certificate and an approved draft of organizational documents to the proposed organizers. The organizers shall prepare two sets of the approved organizational documents and shall file one set with the secretary of state as required by the applicable law and one set with the commissioner.

(5) The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

(6) (a) At least one of the members of the board of directors of a captive insurance company must be a resident of this state. *A captive risk retention group must have a minimum of five directors.*

(b) In the case of a captive insurance company formed as a limited liability company, at least one of the managers must be a resident of the state. *A captive risk retention group formed as a limited liability company must have a minimum of five managers.*

(c) In case of a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of the state. *A captive risk retention group formed as a reciprocal must have a minimum of five members of the subscribers' advisory committee.*

(7) (a) A captive insurance company formed as a corporation or another business entity has the privileges and is subject to the provisions of general corporation law or the laws governing other business entities, as well as the applicable provisions contained in this chapter.

(b) In the event of conflict between the provisions of general corporation law or the laws governing other business entities and this chapter, the provisions of this chapter control.

(8) (a) With respect to a captive insurance company formed as a reciprocal insurer, the organizers shall petition and request that the commissioner issue a certificate that finds that the establishment and maintenance of the proposed association will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the attorney-in-fact; and

(iii) any other factors that the commissioner considers appropriate.

(b) The commissioner may either approve the petition and issue the certificate or reject the petition in a written statement of the reasons for the rejection.

(c) (i) A captive insurance company formed as a reciprocal insurer has the privileges and is subject to the provisions of Title 33, chapter 5, in addition to the applicable provisions of this chapter. If there is a conflict between Title 33, chapter 5, and this chapter, the provisions of this chapter control.

(ii) The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of a subscribers' advisory committee to consist of at least one-third of the number of its members.

(d) A captive risk retention group has the privileges and is subject to the provisions of Title 33, chapter 11, and this chapter. If there is a conflict between Title 33, chapter 11, and this chapter, the provisions of this chapter prevail.

(9) Except as provided in 33-28-306, the provisions of Title 33, chapter 3, pertaining to mergers, consolidations, conversions, mutualizations, and voluntary dissolutions apply in determining the procedures to be followed by captive insurance companies in carrying out any of those transactions.

(10) (a) With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the ~~licensing~~ *authorization* and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company shall apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued.

(b) A branch captive insurance company established pursuant to the provisions of this chapter to write in this state only insurance or reinsurance of the employee benefit business of its parent and affiliated companies is subject to provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq. In addition to the general provisions of this chapter, the provisions of this section apply to branch captive insurance companies.

(c) A branch captive insurance company may not do any insurance business in this state unless it maintains the principal place of business for its branch operations in this state."

Section 5. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) The commissioner or some competent person appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each captive insurance company as often as the commissioner considers advisable but no less frequently than every 5 years.

(b) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public writings as defined in 2-6-101.

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of ~~licensure~~ *authorization* of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 6. Section 33-28-109, MCA, is amended to read:

"33-28-109. Suspension or revocation of ~~license~~ *certificate of authority.* (1) The ~~license~~ *certificate of authority* of a captive insurance company doing insurance business in this state may be suspended by the commissioner for any of the following reasons:

(a) insolvency or impairment of capital or surplus;

(b) failure to meet and maintain the requirements of 33-28-104;

(c) refusal or failure to submit an annual report, as required by 33-28-107, or any other report or statement required by law or by lawful order of the commissioner;

(d) failure to comply with the provisions of its own charter, bylaws, or other organizational document;

(e) failure to submit to examination or to perform any legal obligation as required by 33-28-108;

(f) use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders;

(g) failure to pay the tax provided for in 33-28-201; or

(h) failure otherwise to comply with the laws of this state.

(2) If the commissioner finds, upon examination, hearing, or other evidence, that any captive insurance company has committed any of the acts specified in subsection (1), the commissioner may suspend or revoke the company's ~~license~~ *certificate of authority* if the commissioner considers it in the best interest of the public or the policyholders of the captive insurance company."

Section 7. Section 33-28-201, MCA, is amended to read:

"33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

(i) 0.4% on the first $20 million; and

(ii) 0.3% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

(i) 0.225% on the first $20 million of assumed reinsurance premiums;

(ii) 0.150% on the next $20 million of assumed reinsurance premiums; and

(iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) (a) (i) Except as provided in ~~subsection~~ *subsections* (3)(a)(ii) *and (3)(a)(iii)*, if the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than $5,000 in any year, the captive insurance company shall pay a tax of $5,000 for that year.

(ii) In the calendar year in which a captive insurance company that is subject to the minimum tax is first ~~licensed~~ *authorized*, the tax must be prorated on a quarterly basis as follows:

(A) $5,000 if ~~licensed~~ *authorized* in the first quarter;

(B) $3,750 if ~~licensed~~ *authorized* in the second quarter;

(C) $2,500 if ~~licensed~~ *authorized* in the third quarter; and

(D) $1,250 if ~~licensed~~ *authorized* in the fourth quarter.

(iii) In the calendar year in which a captive insurance company that is subject to the minimum tax surrenders its certificate of authority, the tax must be prorated on a quarterly basis as follows:

(A) $1,250 if surrendered in the first quarter;

(B) $2,500 if surrendered in the second quarter;

(C) $3,750 if surrendered in the third quarter; and

(D) $5,000 if surrendered in the fourth quarter.

~~(b) Aggregate taxes to be paid by a captive insurance company under this section may not exceed $100,000 in any year.~~

~~(c)~~*(b)* Each protected cell in a protected cell captive insurance company must be considered separately in determining the aggregate tax to be paid by the protected cell captive insurance company. If the protected cell captive insurance company insures any risks in addition to the protected cells, the determination of the aggregate tax to be paid by the protected cell captive insurance company must also include the premium on those risks.

(c) Each series of members as defined in 35-8-102 of a limited liability company formed as a special purpose captive insurance company must be considered separately pursuant to this section, except that the minimum tax as described in subsection (3)(a) must be considered in the aggregate.

(4) Aggregate taxes to be paid by a captive insurance company under this section may not exceed $100,000 in any year.

~~(4)~~*(5)* Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

~~(5)~~*(6)* For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual insurers, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more insurers by the same member or members.

~~(6)~~*(7)* Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section.

~~(7)~~*(8)* The tax provided for in this section must be calculated on an annual basis notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium must be prorated for the purposes of determining the tax."

Section 8. Section 33-28-206, MCA, is amended to read:

"33-28-206. Rules. The commissioner may adopt rules necessary to implement the provisions of this chapter. The rules may include but are not limited to rules relating to forms, payment of fees, ~~licensing~~ *authorization*, capital and surplus, formation of companies, reports, examinations, investigations, redomestications, captive risk retention groups, risk-based capital and holding company systems, letters of credit, risks managed by pure captive insurance companies, standards to ensure that parent or affiliated companies are able to exercise control of the risk management function of any controlled unaffiliated entities to be insured by the pure captive insurance companies, the use of deductible reimbursement with workers' compensation, and suspension and revocation of licenses."

Section 9. Section 33-28-207, MCA, is amended to read:

"33-28-207. Applicable laws. (1) The following apply to captive insurance companies:

(a) the definitions of commissioner and department provided in 33-1-202, property insurance provided in 33-1-210, casualty insurance provided in

33-1-206, life insurance provided in 33-1-208, health insurance coverage and group health plans provided in 33-22-140, and disability income insurance provided in 33-1-235;

(b) the limitation provided in 33-2-705 on the imposition of other taxes;

(c) the provisions relating to supervision, rehabilitation, and liquidation of insurance companies as provided for in Title 33, chapter 2, part 13;

(d) the provisions of 33-1-311, 33-1-603, 33-3-431, 33-18-201, 33-18-203, 33-18-205, and 33-18-242; ~~and~~

(e) the provisions relating to dissolution and liquidation in Title 33, chapter 3, part 6, except that a pure captive insurance company may proceed with voluntary dissolution and liquidation after prior notice to and approval of the commissioner without following the provisions of Title 33, chapter 3, part 6~~.~~*; and*

(f) the authority of the commissioner under 33-2-701(6) to impose a fine for failure to timely file an annual statement, except that the annual statement requirements in 33-28-107 apply.

(2) This chapter may not be construed as exempting a captive insurance company, its parent, or affiliated companies from compliance with the laws governing workers' compensation insurance.

(3) A captive insurance company or branch captive insurance company that writes health insurance coverage or group health plans as defined in 33-22-140 shall comply with applicable state and federal laws.

(4) The following provisions apply to captive risk retention groups:

(a) those relating to actuarial opinions in Title 33, chapter 1, part 14;

(b) those relating to risk-based capital in Title 33, chapter 2, part 19; and

(c) those relating to insurance holding company systems in Title 33, chapter 2, part 11.

(5) Except as expressly provided in this chapter, the provisions of Title 33 do not apply to captive insurance companies."

Section 10. Section 33-28-301, MCA, is amended to read:

"33-28-301. Protected cell captive insurance company. (1) One or more sponsors may form a protected cell captive insurance company, which may be incorporated or unincorporated.

(2) A protected cell captive insurance company formed or ~~licensed~~ *authorized* under the provisions of this chapter is subject to the following:

(a) (i) A protected cell captive insurance company may establish one or more protected cells with the prior written approval of the commissioner of a plan of operation or amendments submitted by the protected cell captive insurance company with respect to each protected cell.

(ii) Upon the written approval of the commissioner of the plan of operation, which must include but is not limited to the specific business objectives and investment guidelines of the protected cell, the protected cell captive insurance company in accordance with the approved plan of operation may attribute to the protected cell insurance obligations with respect to its insurance business.

(iii) A protected cell must have its own distinct name or designation that must include the words "protected cell" or "incorporated cell".

(iv) The protected cell captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that

protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(v) An incorporated protected cell may be organized and operated in any form of business organization authorized by the commissioner. Each incorporated protected cell of a protected cell captive insurance company must be treated as a captive insurance company for purposes of this chapter, except for the application of 33-28-201. Unless otherwise permitted by the articles of incorporation or other organizational document of a protected cell captive insurance company, each incorporated protected cell of the protected cell captive insurance company must have the same directors, secretary, and registered office as the protected cell captive insurance company.

(b) All attributions of assets and liabilities between a protected cell and the protected cell captive insurance company's general account must be in accordance with the plan of operation and participant contracts approved by the commissioner. No other attribution of assets and liabilities may be made by a protected cell captive insurance company between the protected cell captive insurance company's general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell must be in cash or in readily marketable securities with established market values.

(c) The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell captive insurance company unless the protected cell is an incorporated cell. Amounts attributed to a protected cell under this chapter, including assets transferred to a protected cell account, are owned by the protected cell, and the protected cell captive insurance company may not be a trustee or hold itself out to be a trustee with respect to those protected cell assets of that protected cell account. A protected cell captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when the security interest is in favor of a creditor of the protected cell and is otherwise allowed under applicable law.

(d) This chapter may not be construed to prohibit the protected cell captive insurance company from contracting with or arranging for an investment adviser, commodity trading adviser, or other third party to manage the protected cell assets of a protected cell if all remuneration, expenses, and other compensation of the third party are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell captive insurance company's general account.

(e) (i) A protected cell captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the protected cell captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a protected cell captive insurance company shall keep protected cell assets and protected cell liabilities:

(A) separate and separately identifiable from the assets and liabilities of the protected cell captive insurance company's general account; and

(B) attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

(ii) If the provisions of this subsection (2)(e) are violated, the remedy of tracing is applicable to protected cell assets commingled with protected cell assets of other protected cells or the assets of the protected cell captive insurance

company's general account. The remedy of tracing may not be construed as an exclusive remedy.

(f) When establishing a protected cell, the protected cell captive insurance company shall attribute to the protected cell assets with a value at least equal to the reserves attributed to that protected cell.

(3) Each protected cell must be accounted for separately on the books and records of the protected cell captive insurance company to reflect the financial condition and result of operations of the protected cell, including but not limited to the net income or loss, dividends or other distributions to participants, and any other factor provided in the participant contract or required by the commissioner.

(4) The assets of a protected cell may not be chargeable with liabilities arising from any other insurance business of the protected cell captive insurance company.

(5) A sale, exchange, or other transfer of assets may not be made by a protected cell captive insurance company among any of its protected cells without the consent of the participants of each affected protected cell.

(6) A sale, exchange, transfer of assets, dividend, or distribution may not be made from a protected cell to a sponsor or a participant without the commissioner's prior written approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to the protected cell.

(7) Each protected cell captive insurance company shall file annually with the commissioner any financial reports required by the commissioner and shall include, without limitation, accounting statements detailing the financial experience of each protected cell.

(8) Each protected cell captive insurance company shall notify the commissioner in writing within 20 business days from the time that a protected cell has become impaired or insolvent or is otherwise unable to meets its claim or expense obligations.

(9) A participant contract may not take effect without the commissioner's prior written approval.

(10) An addition of each new protected cell or the withdrawal of any participant of an existing protected cell constitutes a change in the business plan of the protected cell captive insurance company and may not be effective without the commissioner's prior written approval.

(11) The business written by a protected cell captive insurance company, with respect to each cell, must be fronted by an insurance company ~~licensed~~ *authorized* under the laws of any state or approved by the commissioner.

(12) If a protected cell captive insurance company's business is reinsured, with respect to each cell it must be:

(a) reinsured by a reinsurer authorized or approved by the commissioner; or

(b) secured by a trust fund in the United States for the benefit of policyholders and claimants, which must be funded by an irrevocable letter of credit or other asset that is acceptable to the commissioner, and subject to the following:

(i) the amount of the security provided by the trust fund may not be less than the reserves associated with the liabilities that are not fronted or reinsured, including but not limited to reserves for losses that are allocated for loss

adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell;

(ii) the commissioner may require the protected cell captive insurance company to increase the funding of any trust;

(iii) if the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this state, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the commissioner; and

(iv) the trust and trust instrument must be in a form and with terms approved by the commissioner."

Section 11. Section 33-28-302, MCA, is amended to read:

"33-28-302. Qualification of sponsors. A sponsor of a protected cell captive insurance company must be an insurer ~~licensed~~ *authorized* under the laws of any state, a reinsurer ~~licensed~~ *authorized* under the laws of any state, a captive insurance company formed or ~~licensed~~ *authorized* under this chapter, an insurance producer licensed under chapter 17 of this title and approved by the commissioner, or any other person approved by the commissioner."

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 336

[SB 54]

AN ACT REVISING THE REALTY TRANSFER ACT; PROVIDING TAXPAYERS WITH ADDITIONAL ACCESS TO CONFIDENTIAL SALES PRICE INFORMATION; AMENDING SECTIONS 15-7-102 AND 15-7-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners — appeals. (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) except as provided in subsection (1)(b), change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a

reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year; and

(iii) a statement that the notice is not a tax bill.

(d) When the department uses an appraisal method that values land and improvements as a unit, including the comparable sales method for residential condominiums or the income method for commercial property, the notice must contain a combined appraised value of land and improvements.

(e) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department on forms provided by the department for that purpose. For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the department. For class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

(b) ~~For properties valued using sales price or the capitalization of net income method as an indication of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of comparable sales data from information received from realty transfer certificates under 15-7-308.~~ Within 4 weeks of submitting an objection, if the objection relates to residential

and commercial property, the department shall provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

~~(i) data from comparable sales used by the department to value the property;~~

~~(ii)~~*(i)* the methodology and sources of data used by the department in the valuation of the property; and

~~(iii)~~*(ii)* if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector, and only if the objector signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; and

(ii) sales data used by the department to value residential property in the property taxpayer's market model area.

~~(c)~~*(d)* For properties valued using the capitalization of net income method as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

~~(d)~~*(e)* The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review.

~~(e)~~*(f)* After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed

within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 2. Section 15-7-308, MCA, is amended to read:

"15-7-308. Disclosure of information restricted — exceptions. ~~(1) Except as provided in subsection (2), the~~ *(1) Except as provided in subsection (2), the* certificate required by this part ~~and the information contained in the certificate~~ *and the information contained in the certificate* is not a public record ~~and must be held confidential by the county clerk and recorder and the department~~ *and must be held confidential by the county clerk and recorder and the department*. ~~This is because the legislature finds that the demands of individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to compilations from the certificates or to summaries, analyses, and evaluations based upon the compilations.~~ *This is because the legislature finds that the demands of individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to compilations from the certificates, to summaries, analyses, and evaluations based upon the compilations, or to sales used by the department to value residential property in a property taxpayer's market model area after the property taxpayer signs a written or electronic confidentiality agreement.*

~~(2) The confidentiality provisions of this section do not apply to the information contained in the water right ownership update form or any other form prepared and filed with the department of natural resources and conservation pursuant to 85-2-424 for purposes of maintaining a system of centralized water right records as mandated by Article IX, section 3(4), of the Montana constitution. A person may access water right transfer information through the department of natural resources and conservation pursuant to the department's implementation of the requirements of 85-2-112(3).~~

(2) The confidentiality provisions of this section do not apply to the information contained in the water right ownership update form or any other form prepared and filed with the department of natural resources and conservation pursuant to 85-2-424 for purposes of maintaining a system of centralized water right records as mandated by Article IX, section 3(4), of the Montana constitution. A person may access water right transfer information through the department of natural resources and conservation pursuant to the department's implementation of the requirements of 85-2-112(3)."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 337

[SB 66]

AN ACT REVISING THE YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT; REVISING THE DEFINITION OF "TOBACCO PRODUCT"; AMENDING SECTIONS 16-11-122, 16-11-302, 16-11-303, 16-11-304, 16-11-305, 16-11-306, 16-11-308, 16-11-309, 16-11-310, AND 45-5-637, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-11-122, MCA, is amended to read:

"16-11-122. License fees — renewal. (1) Each application for a wholesaler's license or a tobacco product vendor's license must be accompanied by a fee of $50.

(2) Each application for a subjobber's license must be accompanied by a fee of $50.

(3) Each application for a retailer's license must be accompanied by a fee of $5.

(4) Each application for a license to sell either alternative nicotine products or vapor products must be accompanied by a fee of $5.

~~(4)~~*(5)* The fees for the licenses in subsections (2) and (3) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.

~~(5)~~*(6)* These licenses must be renewed annually on or before the anniversary date established by rule by the board of review established in 30-16-302 and upon payment of the annual fee are effective for 1 year, without proration, and are not transferable."

Section 2. Section 16-11-302, MCA, is amended to read:

"16-11-302. Definitions. For the purposes of 16-11-301 through 16-11-308, the following definitions apply:

(1) "Alternative nicotine product" means any manufactured noncombustible product containing nicotine derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include a tobacco product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

~~(1)~~*(2)* "Distribute" means:

(a) to give, deliver, sample, or sell;

(b) to offer to give, deliver, sample, or sell; or

(c) to cause or hire another person to give, deliver, sample, or sell or offer to give, deliver, sample, or sell.

~~(2)~~*(3)* "Health warning" means a tobacco product label required by federal law and intended to alert users of the product to the health risks associated with tobacco use. The term includes warning labels required under the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act of 1986.

~~(3)~~*(4)* "License" means a retail tobacco product sales license.

~~(4)~~*(5)* "Person" means a natural person, company, corporation, firm, partnership, organization, or other legal entity.

~~(5)~~*(6)* "Tobacco product" means a substance intended for human consumption that contains tobacco. The term includes cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco. *The term does not include an alternative nicotine product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.*

(7) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an

electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act."

Section 3. Section 16-11-303, MCA, is amended to read:

"16-11-303. License for retail sale of tobacco products — *alternative nicotine products — vapor products.* (1) A person may not sell tobacco products*, alternative nicotine products, or vapor products* at retail, whether over the counter, by vending machine, or otherwise, without a license obtained from the department of revenue.

(2) A license for the retail sale of tobacco products*, alternative nicotine products, or vapor products* may be obtained from the department of revenue.

(3) The fee collected by the department must be deposited in the general fund."

Section 4. Section 16-11-304, MCA, is amended to read:

"16-11-304. Signs. A retail seller of tobacco products*, alternative nicotine products, or vapor products* shall conspicuously display, at each place on the premises at which tobacco products*, alternative nicotine products, or vapor products* are displayed and sold, a sign that is to be provided without charge by the department of revenue that states: "Montana law prohibits the sale of tobacco products*, alternative nicotine products, and vapor products* to persons under 18 years of age.""

Section 5. Section 16-11-305, MCA, is amended to read:

"16-11-305. Sale or distribution of tobacco products*, alternative nicotine products, or vapor products* to persons under 18 years of age prohibited. (1) A person may not sell or distribute a tobacco product*, alternative nicotine product, or vapor product* to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise.

(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a driver's license or other generally accepted identification that includes a picture of the individual."

Section 6. Section 16-11-306, MCA, is amended to read:

"16-11-306. Sales of tobacco*, alternative nicotine products, or vapor products* through vending machines restricted. (1) Tobacco products*, alternative nicotine products, and vapor products* may be sold through a vending machine only in places where alcoholic beverages are sold and consumed on the premises and where the vending machine is under the direct line-of-sight supervision of the owner or an employee of the establishment. The tobacco products*, alternative nicotine products, or vapor products* must be in a vending machine that contains only tobacco products*, alternative nicotine products, or vapor products*.

(2) Tobacco products*, alternative nicotine products, or vapor products* may not be sold through a vending machine that is located in a restaurant unless the restaurant has a bar, the restaurant area shares seating with the bar area, and the vending machine meets the requirements of subsection (1).

(3) The sale of tobacco products*, alternative nicotine products, or vapor products* from a vending machine under the direct line-of-sight supervision of an owner or employee is considered a sale of tobacco products*, alternative nicotine*

products, or vapor products by the owner or employee for the purposes of 16-11-305."

Section 7. Section 16-11-308, MCA, is amended to read:

"16-11-308. Civil penalties — license suspension — tobacco education fee. (1) Failure to obtain a license, as required by 16-11-303, failure to post signs, as provided in 16-11-304, or the manufacture or sale of cigarettes or rolling tobacco in violation of the minimum package size requirements of 16-11-111 or 16-11-307 is punishable by a civil penalty of $100. The department may collect the penalty in the manner provided for the collection of other debts.

(2) A person who violates 16-11-305(1) or 16-11-307(1) at any one location within a 3-year period shall be punished as follows:

(a) A first through third offense is punishable by a verbal notification of violation.

(b) A fourth offense is punishable by a written notice of violation to be sent by the department of public health and human services to the owner of the establishment.

(c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco education fee of $500. The employee or other person who sold the tobacco product, *alternative nicotine product, or vapor product,* the establishment manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the tobacco education material.

(d) A sixth offense under 16-11-305(1) or 16-11-307(1) or a third offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months.

(e) A seventh and subsequent offense under 16-11-305(1) or 16-11-307(1) or a fourth and subsequent offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 1 year.

(3) After 2 years from the first violation, if a person has not received notice of any further violations, a second violation is considered a first violation for the purposes of subsection (2).

(4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco education fees or civil penalties are paid in full.

(5) Tobacco education fees must be assessed and collected by the department of public health and human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made by the department of public health and human services within 30 days of the alleged violation by certified letter addressed to the establishment owner or manager. The notice of assessment against the owner of the establishment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the owner or manager shall notify the department of public health and human services that the owner or manager objects to the assessment and request a hearing pursuant to this subsection.

(6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of 16-11-305(1) or 16-11-307(1) is punishable by an assessment of a tobacco education fee of $25 against the employee who sold the tobacco product, *alternative nicotine product, or vapor product,* if the employee is not the owner of the establishment. The tobacco education fee must be assessed and collected by the department of public health and human services. Within 30 days of the alleged violation, notice of assessment pursuant to this

subsection must be made by the department of public health and human services by certified letter addressed to the employee. The notice of assessment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee shall notify the department of public health and human services that the employee objects to the assessment and requests a hearing pursuant to this subsection.

(7) The tobacco education material referred to in this section must be provided by the department of public health and human services in the form of written and video self-teaching materials. The education materials may be used only for the purposes provided in this section. Upon completion of the self-teaching materials, the establishment owner or manager shall execute a written statement on a form provided by the department of public health and human services verifying that the employee, owner, or manager, as appropriate, has read and viewed the self-teaching material and shall return the statement and the self-teaching video to the department of public health and human services.

(8) Upon the sixth and subsequent violation of this section, the department of public health and human services shall notify the department of revenue in writing to initiate suspension of the licenses required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and of the referral of the licensee's record of violations to the department of revenue for suspension of the licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review of the record of violations, the department of revenue declines to initiate suspension proceedings, the violation may not be charged against the licensee for the purposes of this section.

(9) Fees assessed pursuant to this section must be deposited in the state general fund."

Section 8. Section 16-11-309, MCA, is amended to read:

"16-11-309. Inspection and notification of violation required. (1) The department of public health and human services shall conduct inspections of persons selling or distributing tobacco products*, alternative nicotine products, or vapor products* to determine compliance with 16-11-303, 16-11-304, 16-11-305(1), 16-11-306, and 16-11-307. Inspections may be conducted directly by the department of public health and human services or may be provided for by contract let by the department of public health and human services. Persons found to be in violation of the requirements of this part or the rules of the department of public health and human services a fourth and subsequent time must be notified in writing by the department of public health and human services of the facts of the violation and the penalties provided by this part.

(2) The department of public health and human services shall provide documentation of alleged violations of 16-11-303, 16-11-305, and 16-11-307 to the department of revenue."

Section 9. Section 16-11-310, MCA, is amended to read:

"16-11-310. Minors not liable for possession or attempt to purchase. An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for the possession of or the attempt to purchase a tobacco product*, alternative nicotine product, or vapor product* for the purposes of enforcing this part."

Section 10. Section 45-5-637, MCA, is amended to read:

"45-5-637. ~~Tobacco possession~~ *Possession* or consumption *of tobacco products, alternative nicotine products, or vapor products* by persons under 18 years of age prohibited — unlawful attempt to purchase — penalties. (1) A person under 18 years of age who knowingly possesses or consumes a tobacco product, *alternative nicotine product, or vapor product,* as defined in 16-11-302, commits the offense of possession or consumption of a tobacco product*, alternative nicotine product, or vapor product*.

(2) A person convicted of possession or consumption of a tobacco product*, alternative nicotine product, or vapor product*:

(a) shall be fined $50 for a first offense, no less than $75 or more than $100 for a second offense, and no less than $100 or more than $250 for a third or subsequent offense; or

(b) may be adjudicated on a petition alleging the person to be a youth in need of intervention under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

(3) A person convicted of possession or consumption of a tobacco product*, alternative nicotine product, or vapor product* may also be required to perform community service or to attend a tobacco cessation program.

(4) A person under 18 years of age commits the offense of attempt to purchase a tobacco product*, alternative nicotine product, or vapor product* if the person knowingly attempts to purchase a tobacco product, *alternative nicotine product, or vapor product* as defined in 16-11-302. A person convicted of attempt to purchase a tobacco product*, alternative nicotine product, or vapor product*:

(a) for a first offense, shall be fined $50 and may be ordered to perform community service;

(b) for a second or subsequent offense, shall be fined an amount not to exceed $100 and may be ordered to perform community service.

(5) The fines collected under subsections (2) and (4) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made."

Section 11. Effective date. [This act] is effective January 1, 2016.

Approved April 28, 2015

CHAPTER NO. 338

[SB 91]

AN ACT REVISING LAWS RELATED TO RECIPROCAL TAX COLLECTION; CLARIFYING THE PRIORITY OF RECIPROCAL COLLECTIONS OF STATE AGENCY AND LOCAL GOVERNMENT DEBTS BETWEEN THE INTERNAL REVENUE SERVICE AND THE DEPARTMENT OF REVENUE; ALLOWING FOR RECIPROCAL COLLECTION AND OFFSET OF TAX LIABILITY BETWEEN THE STATE AND FEDERAL GOVERNMENT; AMENDING SECTIONS 15-1-201, 15-1-218, AND 17-4-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-201, MCA, is amended to read:

"15-1-201. Administration of revenue laws. (1) (a) The department has general supervision over the administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to the end that all assessments of property are made relatively just and equal, at true value, and in substantial compliance with law. The department may make rules to supervise the administration of all revenue laws of the state and assist in their enforcement.

(b) In the administration of any tax over which it has general supervision, the department may require all individuals subject to the tax laws of the state to provide to the department the individual's social security number, federal employee identification number, or taxpayer identification number.

(c) The department may contract with the U.S. department of the interior or any other federal agency to perform federal royalty audits, collection services, and any other delegable functions related to mining operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

(d) The department may contract with the internal revenue service for tax collection services, including participation in the federal government treasury offset program and any reciprocal offset agreement program.

~~(d)~~*(e)* The department shall adopt rules specifying which types of property within the several classes are considered comparable property as defined in 15-1-101.

~~(e)~~*(f)* The department shall also adopt rules for determining the value-weighted mean sales assessment ratio for all commercial and industrial real property and improvements.

(2) The department shall confer with, advise, and direct officers of municipal corporations concerning their duties, with respect to taxation, under the laws of the state.

(3) The department shall collect annually from the proper officers of the municipal corporations information, in a form prescribed by the department, about the assessment of property, collection of taxes, receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly and return promptly to the department all forms and to aid the department in its work. The department shall examine the records of all municipal corporations for purposes considered necessary or helpful."

Section 2. Section 15-1-218, MCA, is amended to read:

"15-1-218. Out-of-state collections — authority to enter into contracts — statutory appropriation. The department may enter into contracts with out-of-state attorneys, other state tax agencies, *the federal government,* and others located outside the state for out-of-state collections of taxes, fees, and other debt owed the state when the department determines that the amount collected under a contract will likely exceed the cost of collection. The department shall deposit the gross amount collected in the account or fund to which the tax, fee, or other debt was originally owed. The costs of collection are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for the purposes of this section."

Section 3. Section 17-4-105, MCA, is amended to read:

"17-4-105. Authority to collect debt — offsets. (1) Once a debt of an agency has been transferred to the department, the department may collect it. The department may contract with commercial collection agents for recovery of debts owed to agencies.

(2) The department shall, when appropriate, offset any amount due an agency from a person or entity against any amount, including refunds of taxes, owing the person or entity by an agency. The department may not exercise this right of offset until the debtor has first been notified by the department and been given an opportunity for a hearing pursuant to 15-1-211. An offset may not be made against any amount paid out as child support collected by the department of public health and human services. The department shall deduct from the claim and draw warrants for the amounts offset in favor of the respective agencies to which the debt is due and for any balance in favor of the claimant. Whenever insufficient to offset all amounts due the agencies, the amount available must be applied first to debts owed by reason of the nonpayment of child support and then in the manner determined appropriate by the department.

(3) (a) The department may enter into an agreement with the federal government to offset against tax refunds payable by the federal government and pay to the state any taxes or other debts owed to an agency of the state. *Except as provided in subsection (3)(c), the state may also enter into a reciprocal agreement with the federal government for the state to offset against tax refunds payable by the state and pay to the federal government any taxes or other debts owed to the federal government.*

(b) For purposes of offsetting of debts referred to in subsection (3)(a), offsets or payments will be made in the following priority:

(i) child support payments;

(ii) any debts that are owed to this state, an agency of this state as defined in 17-4-101, or a local government unit, including a county, city, town, consolidated city-county, school district, or local public entity with the authority to spend or receive public funds; and

(iii) any debts owed to the federal government.

(c) Taxes or debts that cannot be liened or levied upon pursuant to 26 U.S.C. 5000A(g) must be excluded from the offset.

~~(b)~~*(d)* (i) The department may enter into an agreement with another state or an agency of another state to offset against tax refunds payable by the other state or agency of the other state and pay to this state any taxes or other debts owed to this state or an agency of this state.

(ii) To facilitate an agreement of the kind authorized by subsection ~~(3)(b)(i)~~ *(3)(d)(i)*, the department may enter into an agreement that allows the other state or agency of the other state to offset against tax refunds payable by this state the whole or part of an amount owed for taxes to the other state or agency of the other state. However, the department may enter into an agreement of the type authorized by ~~this subsection (3)(b)(ii)~~ *subsection (3)(a) or (3)(d)(i)* only if the other state or agency of the other state *or the federal government* allows ~~this state or an agency of this state to~~ *the* offset against tax refunds owed by the other state or agency of the other state *or the federal government* any taxes or other debts owed to this state or an agency of this state.

~~(c)~~*(e)* A state or agency of another state *or the federal government* entering into an agreement with the department pursuant to subsection ~~(3)(b)(ii)~~ *(3)(a) or (3)(d)(i)* may not exercise the offset against tax refunds unless the other state or

agency of the other state *or the federal government* has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt. Another state or agency of another state intending to offset taxes shall provide the department with proof of notification and opportunity for review or appeal before the offset is exercised.

(4) (a) A debt owed to the department of public health and human services or being collected by the department of public health and human services on behalf of any person or agency may be offset by the department if the debt is being enforced or collected by the department of public health and human services under Title IV-D of the Social Security Act.

(b) The debt does not need to be determined to be uncollectible as provided for in 17-4-104 before being transferred to the department for offset. The debt must have accrued through written contract, court judgment, administrative order, or a distribution the recipient was not entitled to retain as described in 40-5-910.

(c) Within 30 days following the notification provided for in subsection (2), the person owing a debt described in subsection (4)(a) may request a hearing. The request must be in writing and be mailed to the department. The person owing a debt is not entitled to a hearing if the amount of the debt has been the subject matter of any proceeding conducted for the purpose of determining the validity of the debt and a decision made as a result of that proceeding has become final. The hearing must initially be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. The department of public health and human services shall adopt rules governing the hearing procedures.

(5) If the department determines that a person or entity has refused or neglected to file a claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of the person or entity. If the claim is approved by the department, the claim has the same force and effect as if it were filed by the person or entity. The amount due any person or entity from the state or any agency of the state is the net amount otherwise owing the person or entity after any offset, as provided in this section.

(6) A debt owed to a state agency by a local government may not be offset against a payment due to a local government pursuant to 15-1-121."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 339

[SB 102]

AN ACT REVISING AIR QUALITY FEES; ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COLLECT AND USE REGISTRATION FEES FOR THE ADMINISTRATION OF AIR QUALITY PERMITTING AND REGISTRATION; ALLOWING LOCAL AIR QUALITY PROGRAMS TO COLLECT AND USE REGISTRATION FEES FOR THE ADMINISTRATION OF LOCAL AIR QUALITY PERMITTING AND REGISTRATION; AND AMENDING SECTIONS 75-2-220, 75-2-221, AND 75-2-301, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-2-220, MCA, is amended to read:

"75-2-220. Fees — special assessments — late payment assessments — credit. (1) ~~Concurrent with the submittal of a permit application required under this chapter and annually for the duration of the permit, the applicant~~ *A person required to obtain a permit or to register a facility pursuant to this chapter* shall submit to the department ~~a fee~~ *fees set by the board pursuant to 75-2-111 that are* sufficient to cover the reasonable costs, direct and indirect, of developing and administering the permitting *or registration* requirements in this chapter, including:

(a) reviewing and acting upon ~~the~~ *a permit* application *or a registration or modifying, amending, or updating a permit or registration*;

(b) implementing and enforcing the terms and conditions of ~~the~~ *a* permit *issued pursuant to this chapter or an administrative rule or other regulatory requirement adopted pursuant to this chapter*. This ~~amount~~ does not include any court costs or other costs associated with an enforcement action. If the permit is not issued, the department shall return this portion of the fee to the applicant.

(c) emissions and ambient monitoring;

(d) preparing generally applicable ~~regulations~~ *rules* or guidance;

(e) modeling, analysis, and demonstrations;

(f) preparing inventories and tracking emissions;

(g) providing support to sources under the small business stationary source technical and environmental compliance assistance program; and

(h) all other costs required to be recovered pursuant to Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.

(2) ~~In recovering the costs described in subsection (1), the department may assess an application~~ *For a permit or registration* fee based on ~~estimated actual~~ emissions*,* ~~or an annual fee~~ *the fee must be* based on ~~actual~~ emissions of air pollutants regulated under this chapter, including but not limited to volatile organic compounds, each air pollutant regulated under section 7411 or 7412 of the federal Clean Air Act, 42 U.S.C. 7401, et seq., and each air pollutant subject to a national primary ambient air quality standard.

(3) The board shall by rule provide for the annual ~~adjustment~~ *review* of all fees assessed for *persons holding an* operating permit ~~applications~~ *issued* under 75-2-217 and 75-2-218 to ~~account for changes to the consumer price index~~ *ensure the collection of revenue sufficient to cover the costs of administering the operating permit requirements of this chapter*, as required by Subchapter V of the federal Clean Air Act.

(4) In addition to the ~~fee~~ *fees* required under subsection (1), the board may order the assessment of additional fees required to fund specific activities of the department that are directed at a particular geographic area if the legislature authorizes the activities and appropriates funds for the activities, including emissions or ambient monitoring, modeling analysis or demonstrations, ~~or~~ *and* emissions inventories or tracking. Additional assessments may be levied only on those sources that are within or are believed by the department to be impacting the geographic area. Before the board may require the fees, it shall first determine, after opportunity for hearing, that the activities to be funded are necessary for the administration or implementation of this chapter, that the amount of the requested fees is appropriate, that the assessments apportion the required funding in an equitable manner, and that the department has obtained the necessary appropriation. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection.

(5) (a) If the ~~applicant or~~ permitholder *or registrant* fails to pay in a timely manner a fee required under subsection (1), in addition to the fee, the department may:

(i) impose a penalty not to exceed 50% of the fee, plus interest on the required fee computed as provided in 15-1-216; or

(ii) revoke the permit *or registration* consistent with those procedures established under this chapter for permit revocation.

(b) Within 1 year of revocation, the department may reissue the revoked permit *or registration* after the ~~applicant or~~ permitholder *or registrant* has paid all outstanding fees required under subsections (1) and (4), including all penalties and interest provided for under this subsection (5). In reissuing the revoked permit, the department may modify the terms and conditions of the permit as necessary to account for changes in air quality occurring since revocation.

(c) The board shall by rule provide for the implementation of this subsection (5), including criteria for imposition of the sanctions described in this subsection (5).

(6) The board may by rule allow the reduction of a fee required under this section for an operating permit or permit renewal to account for the financial resources of a category of small business stationary sources.

(7) As a condition of the continuing validity of a permit issued by the department under this chapter prior to October 1, 1993, the board may by rule require the permitholder to pay the fees under subsections (1) and (4).

(8) For an existing source of air pollutants that is subject to Subchapter V of the federal Clean Air Act and that is not required to hold an air quality permit from the department as of October 1, 1993, the board may, as a condition of continued operation, require by rule that the owner or operator of the source pay the fees under subsections (1) and (4).

(9) (a) The department shall give written notice of the fee to be assessed and the basis for the department's fee assessment under this section to the owner or operator of the air pollutant source. The owner or operator may appeal the department's fee assessment to the board within 20 days after receipt of the written notice.

(b) An appeal must be based upon the allegation that the fee assessment is erroneous or excessive. An appeal may not be based on the amount of the fee contained in the schedule adopted by the board.

(c) If any part of the fee assessment is not appealed, it must be paid to the department upon receipt of the notice required in subsection (9)(a).

(d) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection (9).

~~(10) The department may not charge more than one fee annually to a source of air pollutants for the costs identified in subsection (1).~~

~~(11)~~*(10)* The total of the fees charged to an applicant under subsections (1) and (4) of this section must be reduced by the amount of any credit accruing to the applicant under 75-2-225. The department may not increase fee assessments beyond legislative appropriation levels to adjust for any credit claimed under 75-2-225. The credit applied under 75-2-225 may not limit the department's ability to collect fees sufficient to cover the reasonable costs, both direct and indirect, of developing and administering the permitting *and registration* requirements of this chapter."

Section 2. Section 75-2-221, MCA, is amended to read:

"75-2-221. Deposit of air quality permitting *and registration* fees. (1) All money collected by the department pursuant to 75-2-111 and 75-2-220 must be deposited in an account in the state special revenue fund to be appropriated by the legislature to the department for the development and administration of the permitting *and registration* requirements of this chapter.

(2) Upon request, the expenditure by the department of funds in this account may be audited by a qualified auditor at the end of each fiscal year. The cost of the audit must be paid by the person requesting the audit."

Section 3. Section 75-2-301, MCA, is amended to read:

"75-2-301. Local air pollution control programs — consistency with state and federal regulations — procedure for public notice and comment required. (1) After public hearing, a municipality or county may establish and administer a local air pollution control program if the program is consistent with this chapter and is approved by the board.

(2) If a local air pollution control program established by a county encompasses all or part of a municipality, the county and each municipality shall approve the program in accordance with subsection (1).

(3) (a) Except as provided in subsection (5), the board by order may approve a local air pollution control program that:

(i) subject to subsection (4), provides by rule, ordinance, or local law for requirements compatible with, more stringent than, or more extensive than those imposed by 75-2-203, 75-2-204, 75-2-211, 75-2-212, 75-2-215, 75-2-217 through 75-2-219, and 75-2-402 and rules adopted under these sections;

(ii) provides for the enforcement of requirements established under subsection (3)(a)(i) by appropriate administrative and judicial processes; and

(iii) provides for administrative organization, staff, financial resources, and other resources necessary to effectively and efficiently carry out the program. As part of meeting these requirements, a local air pollution control program may administer the permit *or registration* fee provisions of 75-2-220. The permit *or registration* fees collected by a local air pollution control program must be deposited in a county special revenue fund to be used by the local air pollution control program for administration of *local air pollution control program* permitting *or registration* activities.

(b) Board approval of a rule, ordinance, or local law that is more stringent than the comparable state law is subject to the provisions of subsection (4).

(4) (a) A local air pollution control program may, subject to approval by the board, adopt a rule, ordinance, or local law to implement this chapter that is more stringent than comparable state or federal regulations or guidelines only if:

(i) a public hearing is held;

(ii) public comment is allowed; and

(iii) the board or the local air pollution control program makes a written finding after the public hearing and comment period that is based on evidence in the record that the proposed local standard or requirement:

(A) protects public health or the environment of the area;

(B) can mitigate harm to the public health or the environment; and

(C) is achievable with current technology.

(b) The written finding required under subsection (4)(a)(iii) must reference information and peer-reviewed scientific studies contained in the record that

form the basis for the board's or the local air pollution control program's conclusion. The written finding must also include information from the hearing record regarding costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(c) (i) A person or entity affected by a rule, ordinance, or local law approved or adopted after January 1, 1996, and before May 1, 2001, that the person or entity believes is more stringent than comparable state or federal regulations or guidelines may petition the board or the local air pollution control program to review the rule, ordinance, or local law.

(ii) If the board or local air pollution control program determines that the rule, ordinance, or local law is more stringent than state or federal regulations or guidelines, the board or local air pollution control program shall either revise the rule, ordinance, or local law to conform to the state or federal regulations or guidelines or follow the process provided in subsections (4)(a) and (4)(b) within a reasonable period of time, not to exceed 6 months after receiving the petition.

(5) Except for those emergency powers provided for in 75-2-402, the board may not delegate to a local air pollution control program the authority to control any air pollutant source that:

(a) requires the preparation of an environmental impact statement in accordance with Title 75, chapter 1, part 2;

(b) is subject to regulation under the Montana Major Facility Siting Act, as provided in Title 75, chapter 20; or

(c) has the potential to emit 250 tons a year or more of any pollutant subject to regulation under this chapter, including fugitive emissions, unless the authority to control the source was delegated to a local air pollution control program prior to January 1, 1991.

(6) If the board finds that the location, character, or extent of particular concentrations of population, air pollutant sources, or geographic, topographic, or meteorological considerations or any combination of these ~~make~~ *makes* impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, the board may determine the boundaries within which the program is necessary and require it as the only acceptable alternative to direct state administration.

(7) If the board has reason to believe that any part of an air pollution control program in force under this section is either inadequate to prevent and control air pollution in the jurisdiction to which the program relates or is being administered in a manner inconsistent with this chapter, the board shall, on notice, conduct a hearing on the matter.

(8) If, after the hearing, the board determines that any part of the program is inadequate to prevent and control air pollution in the jurisdiction to which it relates or that it is not accomplishing the purposes of this chapter, it shall require that necessary corrective measures be taken within a reasonable time, not to exceed 60 days.

(9) If the jurisdiction fails to take these measures within the time required, the department shall administer within that jurisdiction all of the provisions of this chapter, including the terms contained in any applicable board order, that are necessary to correct the deficiencies found by the board. The department's control program supersedes all municipal or county air pollution laws, rules, ordinances, and requirements in the affected jurisdiction. The cost of the department's action is a charge on the jurisdiction.

(10) If the board finds that the control of a particular air pollutant source because of its complexity or magnitude is beyond the reasonable capability of the local jurisdiction or may be more efficiently and economically performed at the state level, it may direct the department to assume and retain control over that air pollutant source. A charge may not be assessed against the jurisdiction. Findings made under this subsection may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(11) A jurisdiction in which the department administers all or part of its air pollution control program under subsection (9) may, with the approval of the board, establish or resume an air pollution control program that meets the requirements of subsection (3).

(12) A municipality or county may administer all or part of its air pollution control program in cooperation with one or more municipalities or counties of this state or of other states.

(13) Local air pollution control programs established under this section shall provide procedures for public notice, public hearing, public comment, and appeal for any proposed new or revised rules, ordinances, or local laws adopted pursuant to this section. The procedures must comply with the following requirements:

(a) The local air pollution control program shall create and maintain a list of interested persons who wish to be informed of actions related to rules, ordinances, or local laws adopted by the local air pollution control program.

(b) At least 30 days prior to the adoption, revision, or repeal of a rule, ordinance, or law, the local air pollution control program shall give written notice of its intended action.

(c) The notice required under subsection (13)(b) must include:

(i) a statement of the terms or substance of the intended action or a description of the subjects and issues affected by the intended action;

(ii) an explanation of the procedure for a person to be included on the list of interested persons established pursuant to subsection (13)(a);

(iii) an explanation of the procedures and deadlines for presentation of oral or written comments related to the intended action;

(iv) an explanation of the process for requesting a public hearing as provided in subsection (13)(f); and

(v) the rationale for the intended action. The rationale must:

(A) include an explanation of why the intended action is reasonably necessary to implement the goals and purposes of the local air pollution control program;

(B) specifically address those intended actions for which there are no similar state or federal regulations or guidelines; and

(C) be written in plain, easily understood language.

(d) For the purposes of subsection (13)(c)(v), a statement of authority to adopt a rule, ordinance, or local law does not, standing alone, constitute a showing of reasonable necessity for the intended action.

(e) The local air pollution control program shall mail a copy of the proposed rule, ordinance, or local law to all interested persons on the list established pursuant to subsection (13)(a) who have made timely requests to be included on the list.

(f) If at least 10 of the persons who will be directly affected by the proposed rule, ordinance, or local law request a public hearing, the local air pollution control program shall hold a hearing to hear comments from the public on the intended action.

(g) The local air pollution control program shall prepare a written response to all comments submitted in writing or presented at the public hearing for consideration prior to adoption, revision, or repeal of the proposed rule, ordinance, or local law.

(h) A person who submits a written comment on a proposed action or who attends a public hearing in regard to a proposed action must be informed of the final action."

Approved April 28, 2015

CHAPTER NO. 340

[SB 169]

AN ACT REQUIRING AN ELECTION UNDER CERTAIN CIRCUMSTANCES IN THE EVENT OF A VACANCY IN THE UNITED STATES SENATE; MODIFYING CERTAIN TIMELINES TO DETERMINE WHEN A SPECIAL ELECTION WILL BE HELD CONCURRENTLY WITH ANOTHER ELECTION; ALLOWING THE GOVERNOR TO MAKE CERTAIN TEMPORARY APPOINTMENTS TO FILL VACANCIES; REQUIRING THE GOVERNOR TO MAKE AN APPOINTMENT TO FILL A CERTAIN VACANCY IN THE LAST YEAR OF AN OFFICE'S TERM; REQUIRING A TEMPORARY APPOINTEE BE FROM THE SAME POLITICAL PARTY AS THE VACATING OFFICEHOLDER; MODIFYING THE DEADLINE FOR A PARTY NOMINATION OR THE SUBMITTAL OF NOMINATING PETITIONS; AMENDING SECTIONS 13-25-203 AND 13-25-205, MCA; REPEALING SECTION 13-25-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-25-203, MCA, is amended to read:

"13-25-203. Vacancy in office of United States *senator or* representative. (1) If a vacancy occurs in the office of United States *senator or United States* representative, the governor shall immediately order an election to be held to fill the vacancy, except as provided in subsection (3).

(2) The election to fill the unexpired term must be held no less than 85 ~~or~~ *and no* more than 100 days from the date on which the vacancy occurs*:*

(a) between 85 days and 150 days ~~or less before a primary election or between the primary and general elections in odd-numbered years~~ *before a municipal general election*, the election must be held with the ~~primary or~~ *municipal* general election*;*

(b) between January 1 in an even-numbered year and 85 days before a federal primary election, the election must be held with the federal primary election;

(c) less than 85 days before a federal primary election, the election must be held with the federal general election;

(d) between the federal primary election and 85 days before a federal general election, the election must be held with the federal general election;

(e) less than 85 days before a municipal general election or federal general election, the election must be held no less than 85 days and no more than 100 days after the date of the general election.

(3) *(a)* If ~~the~~ *a* vacancy *in the office of United States representative* occurs between the *federal* primary and *the federal* general election in even-numbered years, the candidate elected to the office for the succeeding full term shall immediately take office to fill the unexpired term.

(b) If a vacancy in the office of United States senator occurs in the last year of the office's term, an election for the remainder of the term may not be held if the vacancy occurs between 85 days before the federal primary election and the end of the term. The term of office for a candidate elected to the senate seat at the regularly scheduled general election must commence with the new term.

(4) (a) (i) The governor may make a temporary appointment to fill a vacancy until the election to fill the vacancy is held.

(ii) (A) If the vacancy is subject to the provisions of subsection (3)(b), the governor may make a temporary appointment until the results of the regularly scheduled general election are certified.

(B) When the results are certified, the governor shall appoint the candidate who won the election for the senate seat to fill the remainder of the vacancy.

(b) Unless the appointment is made pursuant to subsection (4)(a)(ii)(B), when a vacancy occurs, if the vacating officeholder represented a political party eligible for primary election under 13-10-601, the person appointed by the governor pursuant to subsection (4)(a)(i) or (4)(a)(ii) must be of the same political party and must be selected by the governor as provided in subsections (5) and (6). However, if the individual vacating the office changed political party affiliations after taking office, the individual who is appointed to fill the vacancy must be of the same political party that the vacating officeholder was when the vacating officeholder was elected or appointed to that office.

(5) Within 3 days after being notified of a vacancy, the governor shall notify the political party that was represented by the vacating officeholder.

(6) (a) Within 15 days after being notified of a vacancy, the state party central committee shall forward to the governor a list of three prospective appointees.

(b) The governor shall select an appointee from the list within 15 days after receiving it."

Section 2. Section 13-25-205, MCA, is amended to read:

"13-25-205. Nominations for special election. (1) When a special election is ordered to fill a vacancy in the office of United States *senator or United States* representative, each political party shall choose a candidate according to the rules of the party. Nominations by parties must be made no later than ~~85~~ *75* days before the date set for the election.

(2) Nominating petitions may be filed by independent candidates for the office up to 5 p.m. of the ~~85th~~ *75th* day before the election."

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

13-25-202. Vacancy in office of United States senator.

Section 4. Coordination instruction. If both Senate Bill No. 279 and [this act] are passed and approved, then Senate Bill No. 279 is void.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 341

[SB 181]

AN ACT REQUIRING THE CONSENT OF THE SENATE FOR APPOINTMENTS TO THE BOARD OF OUTFITTERS; AMENDING SECTION 2-15-1773, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1773, MCA, is amended to read:

"2-15-1773. Board of outfitters. (1) There is a board of outfitters.

(2) The board consists of the following seven members to be appointed by the governor *with the consent of the senate*:

(a) one big game hunting outfitter;

(b) one fishing outfitter;

(c) two outfitters who are engaged in the fishing and hunting outfitting business;

(d) two sportspersons; and

(e) one member of the general public.

(3) A favorable vote of at least a majority of all members of the board is required to adopt any resolution, motion, or other decision.

(4) A vacancy on the board must be filled in the same manner as the original appointment.

(5) The members shall serve staggered 3-year terms and take office on the day they are appointed.

(6) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(7) Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to board appointments and vacancy appointments made on or after [the effective date of this act].

Approved April 27, 2015

CHAPTER NO. 342

[SB 192]

AN ACT AMENDING HEALTH INSURANCE LAWS TO EXPAND FREEDOM OF CHOICE TO ADDITIONAL PRACTITIONERS; AMENDING SECTION 33-22-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies and certificates to provide for freedom of choice of practitioners — professional practice not enlarged. (1) All policies or certificates of disability insurance, including individual, group, and blanket policies or certificates, must provide that the insured has full freedom of choice in the selection of any licensed physician, physician assistant, dentist, osteopath, chiropractor, optometrist, podiatrist, psychologist, licensed social worker, licensed professional counselor, acupuncturist, naturopathic physician,

physical therapist, *speech-language pathologist, audiologist, licensed addiction counselor,* or advanced practice registered nurse as specifically listed in 37-8-202 for treatment of any illness or injury within the scope and limitations of the person's practice. Whenever the policies or certificates insure against the expense of drugs, the insured has full freedom of choice in the selection of any licensed and registered pharmacist.

(2) This section may not be construed as enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1). This section may not be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 2. Coverage for services provided under freedom of choice for auxiliary health services. A health service corporation shall provide, in group and individual insurance contracts or certificates, coverage for health services provided by a speech-language pathologist or audiologist licensed pursuant to Title 37, chapter 15, or an addiction counselor licensed under Title 37, chapter 35, if the health care services that speech-language pathologists, audiologists, or addiction counselors are licensed to perform are covered by the contracts or certificates.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 33, chapter 30, part 10, and the provisions of Title 33, chapter 30, part 10, apply to [section 2].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 28, 2015

CHAPTER NO. 343

[SB 224]

AN ACT CREATING A COMMISSION ON SENTENCING TO STUDY SENTENCING PRACTICES AND POLICIES; PROVIDING FOR THE SUBMISSION OF RECOMMENDATIONS TO THE LEGISLATURE BY THE COMMISSION; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Commission on sentencing. (1) There is a commission on sentencing. The commission is allocated to the legislative services division for staffing services and administrative purposes only.

(2) The commission consists of:

(a) two members of the house of representatives, selected by the speaker of the house of representatives, no more than one of whom may be from the same political party;

(b) two members of the senate, selected by the president of the senate, no more than one of whom may be from the same political party;

(c) one district court judge selected by the chief justice of the Montana supreme court;

(d) the director of the department of corrections or the director's designee;

(e) the following individuals appointed by the attorney general:

(i) a county attorney;

(ii) a private criminal defense attorney;

(iii) a probation and parole officer;

(iv) a county sheriff; and

(v) an employee of the department of justice;

(f) an employee of the office of state public defender appointed by the chief public defender; and

(g) three members of the public, to be selected by the governor from the following list:

(i) a representative of crime victims;

(ii) a representative of faith-based organizations that assist in reentry or corrections programming;

(iii) a representative of community businesses;

(iv) a representative of an organization that provides mental health services;

(v) a representative of an organization that advocates on behalf of indigent people; and

(vi) a formerly incarcerated person or family member of a current or former inmate.

(3) At least two members of the commission must be enrolled members of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana.

(4) Appointments under subsection (2) must be made within 60 days after [the effective date of this act].

(5) The commission shall select a presiding officer from its members.

(6) The commission shall meet at least quarterly.

(7) Decisions of the commission must be made by majority vote of the commission members.

(8) Members of the commission must be compensated as provided in 2-15-124, and must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the commission who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. Legislator members must be compensated as provided in 5-2-302.

Section 2. Duties. The commission shall:

(1) conduct an empirical study of the impact of existing sentencing policies and practices on Montana's criminal justice system, including state prison capacities, local jail and detention center capacities, community supervision and parole resources, judicial operations, public defense expenditures, and law enforcement responsibilities;

(2) identify strategies to safely reduce incarceration in state prisons and to promote evidence-based diversion programs and other effective alternatives to incarceration;

(3) investigate the factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;

(4) consider issues regarding disparity in the criminal justice process, including but not limited to racial and ethnic disparity issues;

(5) identify opportunities to:

(a) streamline and simplify the criminal code; and

(b) balance sentencing practices and policies with budget constraints;

(6) prepare a report of findings and recommendations for submission to the 65th legislature, including evidence-based analysis and data; and

(7) make a recommendation to the 65th legislature as to whether the commission should continue in existence.

~~**Section 3. Appropriation.** There is appropriated $28,000 from the general fund to the legislative services division for fiscal years 2016 and 2017 for the purposes of funding the commission and the study as provided in [section 1].~~

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective July 1, 2015.

Section 6. Termination. [This act] terminates June 30, 2017.

Approved April 23, 2015

Note: The striking of section 3 was done by Governor's line item veto dated April 23, 2015.

CHAPTER NO. 344

[SB 249]

AN ACT GENERALLY REVISING ENERGY PERFORMANCE CONTRACTS; ESTABLISHING CRITERIA FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO USE IN THE ADMINISTRATION OF AN ENERGY PERFORMANCE CONTRACT PROGRAM; ESTABLISHING CRITERIA FOR QUALIFIED ENERGY SERVICE PROVIDERS; PROVIDING FOR INVESTMENT-GRADE ENERGY AUDITS; ESTABLISHING CRITERIA FOR GOVERNMENTAL ENTITIES TO USE IN THE ADMINISTRATION AND FUNDING OF ENERGY PERFORMANCE CONTRACTS; GRANTING RULEMAKING AUTHORITY; EXEMPTING ENERGY PERFORMANCE CONTRACTS FROM CERTAIN CONSOLIDATED CITY-COUNTY GOVERNMENT AND SPECIAL DISTRICT CONTRACT REQUIREMENTS; AMENDING SECTIONS 20-9-471, 90-4-1101, 90-4-1102, 90-4-1103, AND 90-4-1109, MCA; REPEALING SECTIONS 90-4-1104, 90-4-1105, 90-4-1106, 90-4-1107, AND 90-4-1108, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Duties of department — rulemaking. (1) The department shall establish an energy performance contract program for governmental entities. The department shall:

(a) solicit, evaluate, and maintain a list of qualified energy service providers;

(b) pursuant to rules adopted by the department, disqualify and remove from the list energy service providers who do not comply with qualifications established;

(c) enter into agreements with qualified energy service providers and require qualified energy service providers to contract and provide services in accordance with this part;

(d) establish guidelines for awarding energy performance contracts;

(e) develop a standardized energy performance contract process and documents;

(f) assist governmental entities interested in pursuing energy performance contracts by providing technical assistance and educational programs and by maintaining a website;

(g) establish a process for measuring and verifying guaranteed cost savings and cost-effectiveness; and

(h) establish reporting requirements for qualified energy service providers.

(2) The department may adopt rules for:

(a) the review of investment-grade energy audits; and

(b) implementation of this part.

(3) The department may adopt rules establishing criteria for:

(a) the amount of project costs covered by guaranteed cost savings;

(b) guaranteed cost savings;

(c) measurement of energy cost savings and verification; and

(d) use in determining cost-saving measure cost-effectiveness of an unguaranteed utility unit price escalation rate determined in the rules.

Section 2. Selection of qualified energy service providers for energy performance contracts. (1) At least every 5 years, the department shall issue a request for qualifications for energy service providers interested in entering into energy performance contracts with governmental entities. An energy service provider may submit qualifications to the department at any time, and the department shall review the submission for potential inclusion on its list of qualified energy service providers.

(2) The department shall evaluate qualifications for qualified energy service providers on the basis of:

(a) knowledge and experience with:

(i) design, engineering, installation, maintenance, and repairs associated with energy performance contracts;

(ii) conversion to a different fuel source associated with a comprehensive energy efficiency retrofit;

(iii) postinstallation project monitoring, data collection, and reporting of guaranteed cost savings;

(iv) overall project management; and

(v) projects of similar size and scope;

(b) ability to guarantee cost-effectiveness and to access long-term financing;

(c) financial stability; and

(d) other factors determined by the department.

(3) The department shall maintain a list of qualified energy service providers who meet the requirements of subsection (2).

(4) The department shall notify energy service providers who submitted qualifications in accordance with subsection (1) whether they meet the requirements of this part and are qualified energy service providers.

Section 3. Selection of qualified energy service providers. (1) Before entering into an energy performance contract, a governmental entity shall solicit a request for proposals from a minimum of three qualified energy service providers. The governmental entity may award the performance contract to the qualified energy service provider determined by the governmental entity to best meet the needs of the governmental entity. The qualified energy service

provider selected is not required to have submitted the proposal with the lowest cost.

(2) In selecting a qualified energy service provider, a governmental entity shall consider:

(a) experience with:

(i) design, engineering, and installation of cost-saving measures;

(ii) overall project management;

(iii) projects of similar size and scope;

(iv) postinstallation measurement and verification of guaranteed cost savings;

(v) in-state projects and Montana-based subcontractors;

(vi) commissioning of projects;

(vii) training of building operators; and

(viii) conversions to a different fuel source; and

(b) quality of technical approach.

Section 4. Investment-grade energy audits. (1) An energy performance contractor selected by a governmental entity in accordance with [section 3] shall prepare an investment-grade energy audit. The audit must be incorporated into an energy performance contract.

(2) An investment-grade energy audit must include estimates of all costs and guaranteed cost savings for the proposed energy performance contract including:

(a) design;

(b) engineering;

(c) equipment;

(d) materials;

(e) installation;

(f) maintenance;

(g) repairs;

(h) monitoring and verification;

(i) commissioning;

(j) training; and

(k) debt service.

(3) (a) A qualified energy service provider and the governmental entity must agree on the cost of an investment-grade energy audit before it is conducted.

(b) If an investment-grade energy audit is completed and the governmental entity does not execute an energy performance contract, the governmental entity shall pay the full cost of the investment-grade energy audit.

(c) If the governmental entity executes the energy performance contract, the cost of the investment-grade energy audit may be included in the costs of an energy performance contract or, at the discretion of the governmental entity, be paid for by the governmental entity.

Section 5. Energy performance contracts. (1) A governmental entity may pay for an energy performance contract with:

(a) funds designated for operating costs, capital expenditures, utility costs, or lease payments;

(b) installment payment contracts or lease purchase agreements;

(c) bonds issued in accordance with other bonding provisions as provided by law; or

(d) other financing through a third party, including tax-exempt financing.

(2) Utility incentives, grants, operating costs, capital budgets, or other permissible sources may be used to reduce the amount of financing.

(3) (a) An energy performance contract may extend beyond the fiscal year for which the contract is effective.

(b) An energy performance contract may not exceed 20 years, the cost-weighted average useful life of the cost-saving measure, or the term of financing, whichever is shortest.

(4) During the guarantee period, a qualified energy service provider shall:

(a) measure and verify reductions in energy consumption and costs attributable to cost-saving measures implemented pursuant to an energy performance contract; and

(b) not less than annually, prepare and provide a measurement and verification report to the governmental entity and to the department documenting the performance of cost-saving measures.

(5) (a) Costs for measurement and verification must be included in an energy performance contract and paid by the governmental entity during an initial monitoring period that is not less than 3 years.

(b) The energy performance contract must provide that, if guaranteed cost savings are not achieved during any year in the initial monitoring period, the qualified energy service provider shall pay the costs for measurement and verification reports until guaranteed cost savings are achieved for all years in a term of consecutive years equal to the initial monitoring period.

(6) (a) Except as provided in subsection (6)(b), the qualified energy service provider shall pay the governmental entity the amount of any verified annual guaranteed cost savings shortfall each year until guaranteed cost savings are achieved for all years in an initial monitoring period established in accordance with subsection (5). The amount of cost savings achieved during a year must be determined using the mutually agreed on baseline rates referenced in guaranteed cost savings and any unguaranteed energy cost savings attributable to utility unit price escalation rates allowed pursuant to rules adopted by the department pursuant to [section 1(3)(d)].

(b) In the case of a shortfall, the governmental entity and qualified energy service provider may negotiate the terms of measurement and verification reports and the shortfall payment for the remainder of the energy performance contract finance term.

(c) If an excess in guaranteed cost savings in any year of the guarantee period is revealed in a measurement and verification report, the guaranteed cost savings remain with the governmental entity. Guaranteed cost savings may not be used to cover potential shortfalls in subsequent years or actual guaranteed cost savings shortages in previous years of a guarantee period.

Section 6. Energy performance contracts exempt. This part does not apply to solicitation and award of an investment-grade energy audit or energy performance contract pursuant to Title 90, chapter 4, part 11, or to the construction or installation of conservation measures pursuant to the energy performance contract.

Section 7. Section 20-9-471, MCA, is amended to read:

"20-9-471. Issuance of obligations — authorization — conditions. (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, electrical systems, and ~~conservation measures~~ *cost-saving measures* as defined in 90-4-1102;

(c) any other expenditure that the district is otherwise authorized to make, subject to subsection (4), including the payment of settlements of legal claims and judgments; and

(d) the costs associated with the issuance and sale of the obligations.

(2) The term of the obligation, including an obligation for a qualified energy project, may not exceed 15 fiscal years. For the purposes of this subsection, a "qualified energy project" means a project designed to reduce energy use in a school facility and from which the resulting energy cost savings are projected to meet or exceed the debt service obligation for financing the project, as determined by the department of environmental quality.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of that principal and interest.

(4) Except as provided in 20-9-502 and 20-9-503, the proceeds of the obligation may not be used to acquire real property or construct a facility unless:

(a) the acquisition or construction project does not constitute more than 20% of the square footage of the existing real property improvements made to a facility containing classrooms;

(b) the 20% square footage limitation may not be exceeded within any 5-year period; and

(c) the electors of the district approve a proposition authorizing the trustees to apply for funds through the board of investments for the construction project. The proposition must be approved at a special or regular election in accordance with all of the requirements of 20-9-428, except that the proposition is considered to have passed if a majority of the qualified electors voting approve the proposition.

(5) The school district may not submit for a vote of the electors of the district a proposition to impose a levy to pay the principal or any interest on an obligation that is payable from the ~~conservation-related~~ *guaranteed* cost savings under energy performance contracts as defined in 90-4-1102.

(6) The obligation must state clearly on its face that the obligation is not secured by a pledge of the school district's taxing power but is payable from amounts in its general fund or other legally available funds.

(7) An obligation issued is payable from any legally available fund of the district and constitutes a general obligation of the district.

(8) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium and upon any other terms and conditions that the trustees determine to be in the best interests of the district.

(9) The principal amount of the obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

Section 8. Section 90-4-1101, MCA, is amended to read:

"90-4-1101. Legislative findings and policy. (1) The legislature finds that:

(a) conserving energy in ~~local government and state agency~~ *public* buildings and vehicles will have a beneficial effect on the overall supply of energy and can result in cost savings for taxpayers;

(b) conserving water can result in cost savings for taxpayers; and

(c) energy performance contracts are a means by which ~~local government units and state agencies~~ *governmental entities* can *economically and expeditiously* achieve energy and water conservation ~~without an initial capital outlay~~.

(2) It is the policy of the state of Montana to promote efficient use of energy and water resources in ~~local government and state agency~~ *public* buildings and energy conservation in vehicles by authorizing ~~local government units and state agencies~~ *governmental entities* to enter into energy performance contracts."

Section 9. Section 90-4-1102, MCA, is amended to read:

"90-4-1102. Definitions. As used in this part, the following definitions apply:

~~(1) "Conservation measure" means a study, audit, improvement, equipment, alternative energy system, or change in operating practices that is designed to provide energy, water, or operational cost savings at least equivalent to the amount expended by a local government unit or state agency for the study, audit, improvement, or equipment.~~

~~(2) "Conservation-related cost savings" means cost savings in the operating budget of a local government unit or state agency that are a direct result of conservation measures implemented pursuant to an energy performance contract.~~

(1) "Cost-effective" or "cost-effectiveness" means that the sum of guaranteed cost savings and, if and to the extent allowed by rules adopted pursuant to [section 1(3)(d)], unguaranteed energy cost savings attributable to utility unit price escalation are equal to or exceed any financing repayment obligation each year of a finance term.

(2) "Cost-saving measure" means a cost-effective facility improvement, repair, or alteration or equipment, fixtures, or furnishings added to or used in a facility and designed to reduce energy or water consumption or operation and maintenance costs. The term also includes vehicle acquisitions, changes to utility rate or tariff schedules, or fuel source changes that result in cost savings.

(3) "Department" means the department of environmental quality provided for in 2-15-3501.

(4) "Energy performance contract" means a contract between a ~~local government unit or a state agency~~ *governmental entity* and a qualified *energy service* provider for evaluation, recommendation, and implementation of one or more ~~conservation~~ *cost-saving* measures, evaluation of ~~conservation-related cost savings~~ *cost-effectiveness*, and ~~a guarantee of~~ *guaranteed* cost savings.

~~(5) "Investment grade energy audit" means a comprehensive building energy systems audit, performed by a professional engineer licensed in the state of Montana, for the purpose of identifying and documenting conservation~~

measures, cost savings factors, and estimated conservation-related cost savings from the conservation measures identified.

~~(6) "Local government unit" means a county, an incorporated city or town, a city-county consolidated government, a school district, a special district, or a community college district.~~

(5) "Finance term" means the length of time for repayment of funds borrowed for an energy performance contract.

(6) "Governmental entity" means:

(a) a department, board, commission, institution, or branch of state government;

(b) a county, consolidated city-county government, city, town, or school district;

(c) a special district, as defined in 2-2-102;

(d) the university system or a unit of the university system; or

(e) a community college district.

(7) "Guarantee period" means the period of time from the effective date of the contract until guaranteed cost savings are achieved in accordance with [section 5(5)].

(8) "Guaranteed cost savings" means a guaranteed annual measurable monetary reduction in utility and operating and maintenance costs for each year of a guarantee period resulting from cost-saving measures. Guaranteed cost savings for utility cost savings must be calculated using mutually agreed on baseline utility rates in use at the time of an investment-grade energy audit. Guaranteed cost savings for operation and maintenance cost savings must be calculated using mutually agreed on baseline operation and maintenance costs at the time of an investment-grade energy audit.

(9) "Investment-grade energy audit" means a study of energy or water usage of a public building performed by a qualified energy service provider utilizing a professional engineer licensed in the state of Montana. It includes detailed descriptions of the improvements recommended for the project, the estimated costs of the improvements, and the operation and maintenance cost savings and utility cost savings projected to result from the recommended improvements. The study must contain all information required pursuant to [section 4(2)].

(10) "Measurement and verification" means the methodology, measurements, inspections, and mathematical calculations to determine utility consumption before and after an energy performance contract is implemented. The measurement and verification report may be for an individual cost-saving measure or an entire project.

(11) "Operation and maintenance cost savings" means a measurable decrease in operation and maintenance costs as a direct result of cost-saving measures calculated using baseline operation and maintenance costs. The term does not include the shifting of personnel costs or similar short-term cost savings that cannot be definitively measured.

~~(7)~~*(12)* "Person" means an individual, corporation, partnership, firm, association, cooperative, limited liability company, limited liability partnership, or any other similar entity.

~~(8) "Qualified provider" means a person that:~~

~~(a) is experienced in the design, implementation, and installation of conservation measures and building improvement measures;~~

~~(b) has the technical capabilities to ensure that the conservation measures and building improvement measures generate conservation-related cost savings; and~~

~~(c) has the financial ability to guarantee performance.~~

~~(9) "State agency" has the meaning provided in 90-4-602.~~

(13) "Qualified energy service provider" means a person included on the department's list of qualified energy service providers.

(14) "Utility cost savings" means expenses for utilities that are eliminated or avoided on a long-term basis as a result of equipment installed or modified or services performed by a qualified energy service provider. Utility cost savings include expenses for natural gas, propane or similar fuels, electricity, water, waste water, and waste disposal."

Section 10. Section 90-4-1103, MCA, is amended to read:

"90-4-1103. Authority to enter into energy performance contracts. (1) A ~~local government unit or a state agency~~ *governmental entity* may enter into an energy performance contract. *A governmental entity that enters into an energy performance contract shall do so in accordance with this part.* ~~with a qualified provider under the procedures provided in 90-4-1104 or 90-4-1105.~~

(2) Nothing in this part prevents a ~~local government unit or a state agency~~ *governmental entity* from ~~contracting~~ *entering into a contract that is not an energy performance contract* for conservation measures under any other legal authority."

Section 11. Section 90-4-1109, MCA, is amended to read:

"90-4-1109. Contracts and agreements not general obligation of ~~local government unit or state~~ *governmental entity.* ~~Payment~~ *Except as provided in [section 5(1)], payment* obligations of a ~~local government unit or a state agency~~ *governmental entity* pursuant to an energy performance contract are not general obligations of the ~~local government unit or the state~~ *governmental entity* and are collectible only from ~~conservation-related~~ *guaranteed* cost savings provided in the energy performance contract and other revenue, if any, pledged in the energy performance contract."

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

90-4-1104. Selection of qualified providers for energy performance contracts.

90-4-1105. Alternative selection process.

90-4-1106. Award of energy performance contracts.

90-4-1107. Term and conditions of energy performance contracts.

90-4-1108. Assistance to local governments and state agencies.

Section 13. Codification instructions. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 90, chapter 4, part 11, and the provisions of Title 90, chapter 4, part 11, apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 7, chapter 3, part 13, and the provisions of Title 7, chapter 3, part 13, apply to [section 6].

(3) [Section 6] is intended to be codified as an integral part of Title 7, chapter 11, part 10, and the provisions of Title 7, chapter 11, part 10, apply to [section 6].

Section 14. Applicability. [This act] applies to contracts entered into on or after [the effective date of this act].

Approved April 28, 2015

CHAPTER NO. 345

[SB 298]

AN ACT REQUIRING THE ATTORNEY GENERAL TO PURSUE REIMBURSEMENT OF MONEY OWED TO MONTANA PURSUANT TO THE ENABLING ACT; DEPOSITING RECOVERED FUNDS IN THE PERMANENT FUND FOR THE SUPPORT OF COMMON SCHOOLS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enabling Act enforcement — findings. (1) The legislature finds that:

(a) section 13 of The Enabling Act requires that 5% of the proceeds from public lands in Montana sold by the United States, after deduction of expenses, must be paid to the state for the support of the common schools;

(b) the United States incorrectly interprets The Enabling Act provision cited in subsection (1)(a) to only include the sale of lands managed by the secretary of the interior; and

(c) the United States owes Montana 5% of the proceeds of all public land in Montana sold by the United States government since November 8, 1889.

(2) The attorney general shall pursue, to the extent feasible using available state resources, payment of the funds owed to Montana pursuant to subsection (1).

(3) Any money paid to the state pursuant to this section must be deposited in the permanent fund for the support of common schools as referenced in section 13 of The Enabling Act.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 77, chapter 1, part 1, and the provisions of Title 77, chapter 1, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2015

CHAPTER NO. 346

[SB 350]

AN ACT AUTHORIZING OR REQUIRING ACTION BY THE COMMISSIONER OF INSURANCE WHEN AN INSURANCE NAVIGATOR OR AN APPLICANT TO BECOME AN INSURANCE NAVIGATOR COMMITS CERTAIN ACTS; EXPANDING ACTIONS THAT AN INSURANCE NAVIGATOR MAY NOT ENGAGE IN; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-17-220 AND 33-17-241, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-17-220, MCA, is amended to read:

"33-17-220. Licensing background examination — ~~entity registry criteria~~ *action by commissioner*. (1) (a) Each applicant for a producer's license or navigator certification shall obtain a complete background examination. The applicant or insurer shall pay the cost of the background examination. The background examination report must provide information to confirm:

(i) the applicant's:

(A) identity;

(B) current address;

(C) professional license certification; and

(D) military service; and

(ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and

(B) regulatory agencies' disciplinary actions concerning the applicant.

(b) The background examination is confidential and may not be held as part of the licensee's or navigator's public file.

(c) (i) The commissioner may, when initially making a decision regarding an applicant's navigator certification, consider the findings obtained from the background examination, including an existing or ongoing criminal investigation or any disciplinary action taken by a regulatory agency against the applicant that relates to the applicant's suitability for navigator certification.

(ii) The commissioner may not issue navigator certification to an applicant if the background examination discloses an act by the applicant that, under 33-17-1001, would allow the commissioner to suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license.

(iii) If the commissioner initially approves an applicant's navigator certification while the applicant is the subject of a criminal investigation or is potentially subject to disciplinary action and the applicant is subsequently found to have committed an act that, under 33-17-1001, would allow the commissioner to suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, the commissioner may suspend or, pursuant to subsection (1)(c)(iv), shall revoke the navigator certification.

(iv) The commissioner shall immediately revoke a navigator's certification if the commissioner discovers that the navigator has committed an act that, under 33-17-1001, would allow the commissioner to suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license.

(2) For the purpose of obtaining a state and a federal criminal records check pursuant to subsection (1), the commissioner may require a person applying for a license or navigator certification to submit a full set of fingerprints to the commissioner. The commissioner shall submit the fingerprints to the Montana department of justice. The Montana department of justice may exchange this fingerprint data with the federal bureau of investigation.

(3) The commissioner may require fingerprints to be collected and remitted in an electronic format to facilitate periodic resubmission of fingerprints.

(4) The commissioner may contract for the collection, transmission, and retention of fingerprints and may agree to a reasonable fee charged by a contractor for these services. If the commissioner contracts for services, the fee for collecting, transmitting, and retaining of fingerprints must be paid directly to the contractor by the applicant or insurer.

(5) The commissioner is authorized to receive criminal history record information in lieu of the Montana department of justice relating to fingerprints submitted to the federal bureau of investigation.

(6) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints."

Section 2. Section 33-17-241, MCA, is amended to read:

"33-17-241. Navigator certification — duties — prohibitions. (1) An individual or an individual performing navigator duties on behalf of an organization serving as a navigator may not act in the capacity of a navigator unless the individual has met all of the following requirements, as applicable:

(a) is at least 18 years of age;

(b) has completed and submitted the application form provided for in 33-17-242 and has declared, under penalty of refusal, suspension, or revocation of the navigator's certification, that the statements made in the form are true, correct, and complete to the best of the applicant's knowledge and belief;

(c) has completed a background examination as described in 33-17-220;

(d) has successfully completed the navigator certification and training requirements adopted by the commissioner, as provided in 33-17-242; and

(e) has paid all fees required by 33-2-708.

(2) A navigator's duties may include any of the following:

(a) conducting public education activities to raise awareness of the availability of qualified health plans;

(b) distributing fair and impartial general information concerning how to enroll in any qualified health plan offered within the exchange and the availability of the premium tax credits under 26 U.S.C. 36B and the cost-sharing reductions provided under 42 U.S.C. 18071;

(c) assisting consumers in understanding how to enroll in a qualified health plan through an exchange or appropriate public programs offering health care coverage, without suggesting that the consumer purchase any particular plan; and

(d) referring consumers to the commissioner's office for assistance with complaints, appeals, or grievances or for general information about health insurance.

(3) A navigator may not do any of the following unless the navigator is otherwise licensed or authorized to do so under this chapter:

(a) sell, solicit, or negotiate health insurance; ~~or~~

(b) recommend, endorse, or offer opinions about the benefits, terms, or features of a particular health benefit plan or offer an opinion about which health benefit plan is better or worse for a particular individual or employer;

(c) provide any information or services related to a health benefit plan or another product not offered in the exchange;

(d) engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice; or

~~(b)~~*(e)* enroll an individual or an employee in a qualified health plan offered through an exchange."

Approved April 27, 2015

CHAPTER NO. 347

[SB 367]

AN ACT CLARIFYING THE DISTRIBUTIONS AND AMOUNTS TO BE TRANSFERRED FROM THE STATE GENERAL FUND TO THE RESEARCH AND COMMERCIALIZATION STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 7-14-112, 10-2-112, 10-2-603, 10-3-801, 15-1-122, AND 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-112, MCA, is amended to read:

"7-14-112. Senior citizen and persons with disabilities transportation services account — use. (1) There is a senior citizen and persons with disabilities transportation services account in the state special revenue fund. Money must be deposited in the account pursuant to 15-1-122~~(2)(e)~~*(3)(e)*.

(2) Except as provided in subsection (6), the account must be used to provide operating funds or matching funds for operating grants pursuant to 49 U.S.C. 5311 to counties, incorporated cities and towns, transportation districts, or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with disabilities.

(3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to award grants to counties, incorporated cities and towns, transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311.

(b) Priority for awarding grants must be determined according to the following factors:

(i) the most recent census or federal estimate of persons 60 years of age or older and persons with disabilities in the area served by a county, incorporated city or town, transportation district, or nonprofit organization;

(ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older and to persons with disabilities in the transportation service area;

(iii) the ability of the transportation provider to provide matching money in an amount determined by the department of transportation; and

(iv) the coordination of services as required in subsection (5).

(4) The department of transportation shall ensure that the available funding is distributed equally among the five transportation districts provided in 2-15-2502.

(5) In awarding grants, the department of transportation shall give preference to proposals that:

(a) include the establishment of a transit authority to coordinate service area or regional transportation services;

(b) address and document the transportation needs within the community, county, and service area or region;

(c) identify all other transportation providers in the community, county, and service area or region;

(d) explain how services are going to be coordinated with the other transportation providers in the service area or region;

(e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and disabled persons within the community, county, and service area or region who are dependent upon public transit;

(f) include documentation of coordination with other local transportation programs within the community, county, and service area or region, including:

(i) utilization of existing resources and equipment to maximize the delivery of service; and

(ii) the projected increase in ridership and expansion of service;

(g) invite school districts to participate or be included in the transportation coordination efforts within the community, county, and service area or region; and

(h) at a minimum, comply with the provisions in subsections (5)(b) through (5)(f).

(6) Any money remaining after grants have been awarded to transportation providers who provide transportation services for persons 60 years of age or older and persons with disabilities may be awarded to other transportation providers for operating costs or matching funds for operating grants for the purposes described in 49 U.S.C. 5311 other than for transportation services for persons 60 years of age or older or persons with disabilities."

Section 2. Section 10-2-112, MCA, is amended to read:

"10-2-112. Veterans' services special revenue account — sources of funds — designated uses. (1) There is a veterans' services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money transferred pursuant to 15-1-122~~(2)(d)~~*(3)(d)* from license plate sales as described in 10-2-114 and from gifts, grants, or donations must be deposited in the veterans' services account.

(3) Legislative appropriations of money in the veterans' services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans' services federal account in the federal special revenue fund established for federal funds received under 10-2-106."

Section 3. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account — use of funds — solicitation. (1) There is an account in the special revenue fund to the credit of the board for the state veterans' cemeteries.

(2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to 15-1-122~~(2)(d)~~*(3)(d)* must be deposited into the account.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the department and may be used by the board only for the construction, maintenance, operation, and administration of the state veterans' cemeteries.

(4) The board shall solicit veterans' license plate sales and donations on behalf of the state veterans' cemeteries."

Section 4. Section 10-3-801, MCA, is amended to read:

"10-3-801. Account created for funding search and rescue operations — rules. (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to 15-1-122~~(2)(f)~~*(3)(f)*;

(b) fund transfers pursuant to 87-1-601(10). These funds may be used only as provided in 87-1-601(10).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff's office at a maximum of $6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall notify the reimbursed local search and rescue unit by mail when the deposit occurs.

(ii) a county sheriff's office at a maximum of $6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for use by local search and rescue units at a maximum of $6,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year;

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training; and

(d) a method for compiling and keeping current a contact list of all search and rescue units in Montana and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation between the various county search and rescue units and between the department and the county units and dedication of a page on the department's website for posting the contact list and other relevant search and rescue information."

Section 5. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of $59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For fiscal years 2016 through 2019, there is transferred $1.275 million on an annual basis from the state general fund to the research and commercialization state special revenue account provided for in 90-3-1002.

~~(2)~~*(3)* For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

~~(3)~~*(4)* The amount of $200,000 is transferred from the state general fund to the livestock loss reduction and mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

~~(4)~~*(5)* For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

~~(5)~~*(6)* ~~The~~ *Except as provided in subsection (2), the* amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Section 6. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund*, less the annual transfer of $1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2),* is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) $65,000 to the cooperative development center;

(ii) $625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

~~(iii) $1.275 million to the research and commercialization state special revenue account created in 90-3-1002;~~

~~(iv)~~*(iii)* to the department of commerce:

(A) $125,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $425,000 for certified regional development corporations;

(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement; and

~~(v)~~*(iv)* except as provided in subsection (9)(c), up to $21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection ~~(9)(b)(v)~~ *(9)(b)(iv)* subject to legislative approval. (Terminates June 30, 2019—secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection (9)(c), up to $24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."

Section 7. Effective date. [This act] is effective July 1, 2015.

Approved April 28, 2015

CHAPTER NO. 348

[HB 123]

AN ACT GENERALLY REVISING AND REORGANIZING MONTANA PUBLIC RECORDS LAWS; UPDATING DEFINITIONS AND PROVIDING NEW DEFINITIONS; CLARIFYING ACCESS TO PUBLIC INFORMATION; PROVIDING SAFETY AND SECURITY EXCEPTIONS; PROVIDING A PROCEDURE FOR PUBLIC INFORMATION REQUESTS; ALLOWING FEES FOR PUBLIC INFORMATION REQUESTS; ALLOWING SPECIAL FEES FOR CERTAIN INFORMATION; EMPHASIZING THE DISPOSITION OF PUBLIC RECORDS ACCORDING TO RETENTION SCHEDULES; UPDATING THE REQUIREMENTS FOR ESSENTIAL RECORDS; CLARIFYING THE PROHIBITION ON DISSEMINATING DISTRIBUTION LISTS; REVISING THE RECORDS MANAGEMENT DUTIES OF THE SECRETARY OF STATE; REQUIRING COLLABORATION BETWEEN THE DEPARTMENT OF ADMINISTRATION AND THE SECRETARY OF STATE; EXPANDING THE MEMBERSHIP AND DUTIES OF THE STATE RECORDS COMMITTEE; PROVIDING POWERS AND DUTIES OF THE MONTANA HISTORICAL SOCIETY FOR MANAGING HISTORIC RECORDS AND CONSTITUTIONAL OFFICER RECORDS; CLARIFYING AGENCY RESPONSIBILITIES FOR RECORDS MANAGEMENT; REVISING MEMBERSHIP AND DUTIES OF THE LOCAL GOVERNMENT RECORDS COMMITTEE; REDUCING THE NOTICE REQUIREMENTS BEFORE DESTRUCTION OF CERTAIN LOCAL GOVERNMENT RECORDS; UPDATING PROTECTIONS OF PERSONAL INFORMATION; PROVIDING

RULEMAKING AUTHORITY; AMENDING SECTIONS 2-3-212, 2-3-221, 2-3-301, 2-15-2017, 5-11-203, 7-4-2614, 7-5-2132, 7-5-4124, 7-11-1007, 13-1-303, 13-21-228, 15-1-103, 15-1-521, 15-62-209, 17-8-403, 18-4-126, 19-2-403, 19-17-111, 22-1-211, 30-9A-522, 30-14-1603, 30-17-101, 32-11-107, 33-1-1403, 33-28-108, 46-23-110, 53-21-1108, 61-6-157, 61-11-510, AND 81-2-115, MCA; AND REPEALING SECTIONS 2-6-101, 2-6-102, 2-6-103, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109, 2-6-110, 2-6-111, 2-6-112, 2-6-201, 2-6-202, 2-6-203, 2-6-204, 2-6-205, 2-6-206, 2-6-207, 2-6-208, 2-6-211, 2-6-212, 2-6-213, 2-6-214, 2-6-301, 2-6-302, 2-6-303, 2-6-304, 2-6-307, 2-6-401, 2-6-402, 2-6-403, 2-6-404, 2-6-405, 2-6-501, 2-6-502, 2-6-503, AND 2-6-504, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. The purpose of this chapter is to ensure efficient and effective management of public records and public information, in accordance with Article II, sections 8 through 10, of the Montana constitution, for the state of Montana and its political subdivisions.

Section 2. Definitions. As used in this chapter, the following definitions apply:

(1) "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:

(a) constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;

(b) related to judicial deliberations in adversarial proceedings;

(c) necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and

(d) designated as confidential by statute or through judicial decisions, findings, or orders.

(2) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the executive branch of government.

(3) "Constitutional officer record" means a public record prepared, owned, used, or retained by a constitutional officer.

(4) "Essential record" means a public record immediately necessary to:

(a) respond to an emergency or disaster;

(b) begin recovery or reestablishment of operations during and after an emergency or disaster;

(c) protect the health, safety, and property of Montana citizens; or

(d) protect the assets, obligations, rights, history, and resources of a public agency, its employees and customers, and Montana citizens.

(5) "Executive branch agency" means a department, board, commission, office, bureau, or other public authority of the executive branch of state government.

(6) "Historic record" means a public record found by the state archivist to have permanent administrative or historic value to the state.

(7) "Local government" means a city, town, county, consolidated city-county, special district, or school district or a subdivision of one of these entities.

(8) "Local government records committee" means the committee provided for in [section 22].

(9) "Permanent record" means a public record designated for long-term or permanent retention.

(10) "Public agency" means the executive, legislative, and judicial branches of Montana state government, a political subdivision of the state, a local government, and any agency, department, board, commission, office, bureau, division, or other public authority of the executive, legislative, or judicial branch of the state of Montana.

(11) "Public information" means information prepared, owned, used, or retained by any public agency relating to the transaction of official business, regardless of form, except for confidential information that must be protected against public disclosure under applicable law.

(12) "Public officer" means any person who has been elected or appointed as an officer of state or local government.

(13) "Public record" means public information that is:

(a) fixed in any medium and is retrievable in usable form for future reference; and

(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

(14) "Records manager" means an individual designated by a public agency to be responsible for coordinating the efficient and effective management of the agency's public records and information.

(15) "State records committee" means the state records committee provided for in [section 15].

Section 3. Access to public information — safety and security exceptions — Montana historical society exception. (1) Except as provided in subsections (2) and (3), every person has a right to examine and obtain a copy of any public information of this state.

(2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

(3) The Montana historical society may honor restrictions imposed by private record donors as long as the restrictions do not apply to public information. All restrictions must expire no later than 50 years from the date the private record was received. Upon the expiration of the restriction, the private records will be made accessible to the public.

Section 4. Public information requests — fees. (1) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(2) Upon receiving a request for public information, a public agency shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged pursuant to subsection (3).

(3) A public agency may charge a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(6) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

Section 5. Special fees allowable for certain information. (1) In addition to the fee allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative body or its members or staff.

(2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(3) All fees received by the department of revenue under [section 4] and this section must be deposited in the property value improvement fund as provided in 15-1-521.

(4) In accordance with the fees allowed under [section 4], the Montana historical society may charge fees as approved by its board of trustees for copies of materials contained in its collections, based on documentable curatorial duties as set forth in 22-3-101.

Section 6. Management of public records — disposal and destruction. (1) (a) Each public officer is responsible for properly managing the public records within the public officer's possession or control through an established records management plan that satisfies the requirements of this chapter.

(b) Executive branch agencies shall manage public records according to the provisions of [sections 13 through 21] and the rules and guidelines established by the secretary of state, the state records committee, and the Montana historical society.

(c) Local governments shall manage public records according to the provisions of [sections 22 through 24] and the rules and guidelines established

by the secretary of state, the local government records committee, and the Montana historical society.

(d) Pursuant to 5-2-503 and 5-11-105, the legislative council shall administer the records management plan for the legislative branch. The legislative branch shall cooperate with the secretary of state, the state records committee, the local government records committee, and the Montana historical society in the development, implementation, and administration of the legislative records management plan using [sections 13 through 21] as guidance.

(e) The judicial branch shall establish a records management plan. The judicial branch may seek assistance from the secretary of state, the state records committee, the local government records committee, and the Montana historical society regarding development, implementation, and administration of the judicial records management plan.

(2) When a public record has reached the end of its retention period, the public officer shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.

Section 7. Preservation of public records — possession of public records. (1) All public records are and remain the property of the public agency possessing the records. The public records must be delivered by outgoing public officers and employees to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this chapter.

(2) If an outgoing public officer or employee refuses or fails to deliver to the current public officer or employee any public records that pertain to that public office, the current public officer or employee may file a complaint in the district court of the county where the outgoing public officer or employee resides, pursuant to the Montana Rules of Civil Procedure, to compel the outgoing public officer or employee to deliver any public records still in the outgoing public officer or employee's possession to the current public officer or employee.

Section 8. Written notice of denial — civil action — costs to prevailing party in certain actions to enforce constitutional or statutory rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) A person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person's rights under Article II, section 9, of the Montana constitution or under the provisions of [sections 1 through 24] may be awarded costs and reasonable attorney fees.

Section 9. Certified copies of records — historic records and constitutional officer records — exception. (1) A person may request a certified copy of a public record from a public agency subject to the provisions of [section 3]. The public agency may charge a fee for the certified copy in accordance with [section 4].

(2) A person may request a certified copy of a historic record or a constitutional officer record from the Montana historical society subject to the provisions of [section 3]. The Montana historical society may charge a fee for the certified copy in accordance with [sections 4 and 5(4)].

(3) A certified copy created by the Montana historical society of a historic record or a constitutional officer record has the same force in law as if made by the original public agency that created the record.

(4) Pursuant to 2-15-403, this section does not apply to certified copies provided by the secretary of state for information contained in the secretary of state's corporate and uniform commercial code electronic filing system.

Section 10. Protection and storage of essential records. (1) To provide for the continuity and preservation of civil government, each public officer shall designate certain public records as essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each public officer shall collaborate with the appropriate continuity of government programs to ensure essential records are identified and maintained.

(2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public officer shall look to the guidance provided by the state records committee or the local government records committee in choosing appropriate methods to protect, store, back up, and recover essential records.

Section 11. Prohibition on dissemination or use of distribution lists — exceptions — penalties. (1) Except as provided in subsections (3) through (10), to protect the privacy of those who deal with state and local government:

(a) a public agency may not distribute or sell a distribution list without first securing the permission of those on the list; and

(b) a list of persons prepared by a public agency may not be used as a distribution list without first securing the permission of those on the list except by that agency.

(2) As used in this section, "distribution list" means any list of personal contact information collected by a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

(3) This section does not prevent an individual from compiling a distribution list by examination of records that are otherwise open to public inspection.

(4) This section does not apply to the lists of:

(a) registered electors and the new voter lists provided for in 13-2-115;

(b) the names of employees governed by Title 39, chapter 31;

(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;

(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or

(e) persons certified as claims examiners under 39-71-320.

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access by Montana law enforcement agencies.

(7) This section does not apply to the secretary of state's electronic filing system developed pursuant to 2-15-404 and containing corporate and uniform commercial code information.

(8) This section does not apply to the use by the public employees' retirement board of a list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered

retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not released to the organization.

(9) This section does not apply to lists of individuals who sign attendance sheets or sign-in sheets at a hearing or meeting of a public agency.

(10) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

(11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

Section 12. Concealment of public hazards prohibited — concealment of information related to settlement or resolution of civil suits prohibited. (1) This section may be cited as the "Gus Barber Antisecrecy Act".

(2) As used in this section, "public hazard" means a device, instrument, or manufactured product or a condition of a device, instrument, or manufactured product that endangers public safety or health and has caused injury, as defined in 27-1-106.

(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.

(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.

(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.

(6) This section does not apply to:

(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to Title 30, chapter 14, part 4;

(b) other information that is confidential under state or federal law; or

(c) a health care provider, as defined in 27-6-103.

(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed.

(8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard.

(9) This section does not apply to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).

Section 13. Secretary of state — powers and duties — rulemaking authority. (1) To ensure the proper management and safeguarding of public records, the secretary of state shall:

(a) establish guidelines based on accepted industry standards for managing public records;

(b) upon request of another executive branch agency, review, analyze, and make recommendations regarding executive branch agency filing systems and procedures;

(c) operate the state records center for the purpose of storing and servicing public records not retained in office space;

(d) provide information and training materials for all phases of efficient and effective records management;

(e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;

(f) consult with the department of administration pursuant to [section 14];

(g) adopt rules regarding management of public records;

(h) adopt rules to implement the objectives of the state records committee and local government records committee; and

(i) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and provide services similar to those available to the executive branch.

(2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.

Section 14. Department of administration — powers and duties. (1) To ensure compatibility with the information technology systems of state government and to promote adherence to records management principles and best practices, the department of administration, in consultation with the secretary of state, shall establish standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods.

(2) The department of administration, in consultation with the secretary of state, shall approve all acquisitions of executive branch agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).

(3) The department of administration is responsible for the management and operation of equipment, systems, facilities, and processes integral to the department's central computer center and statewide telecommunications system.

Section 15. State records committee — composition and meetings. (1) There is a state records committee composed of:

(a) representatives of:

(i) the department of administration;

(ii) the legislative auditor;

(iii) the attorney general;

(iv) the secretary of state;

(v) the Montana historical society;

(vi) the governor;

(vii) the clerk of the supreme court; and

(viii) the state chief information officer; and

(b) five members representing executive branch agencies designated pursuant to subsections (4) and (5).

(2) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.

(3) The committee members representing the agencies in subsection (1)(a) are designated by the heads of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the heads of their respective agencies.

(4) To implement subsection (1)(b), the committee members in subsection (1)(a) shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The secretary of state shall adopt the rotation by administrative rule.

(5) The committee shall establish guidelines for the heads of executive branch agencies in appointing representatives to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.

(6) The committee shall meet at least quarterly.

(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.

Section 16. State records committee duties and responsibilities. The purpose of the state records committee is to act as a resource for executive branch agencies and others by staying at the forefront of records management best practices. The committee shall:

(1) gather and disseminate information on all phases of records management;

(2) advise the secretary of state in developing records management standards, guidelines, and training materials;

(3) develop guidelines to help agencies identify, maintain, and secure their essential records;

(4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;

(5) make recommendations to the secretary of state for rulemaking regarding public records management;

(6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change; and

(7) report biennially to the governor and, as provided in 5-11-210, the legislature on the activities of the committee, improvements in records management in state government, aspects of records management requiring

further improvement, and committee recommendations and plans for further improvement.

Section 17. Retention and disposition subcommittee — approval required for record disposal. (1) There is a subcommittee of the state records committee to be known as the retention and disposition subcommittee. The subcommittee is composed of the members of the state records committee who represent the following offices:

(a) the department of administration;

(b) the legislative auditor;

(c) the attorney general;

(d) the secretary of state; and

(e) the Montana historical society.

(2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules of all public records.

(3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction must be submitted to the subcommittee by the agency concerned.

(4) The subcommittee may by unanimous approval establish categories of records for which no disposal request is required if those records are retained for the designated retention period.

Section 18. Historic records — Montana historical society — powers and duties. To ensure the proper management and safeguarding of historic records, the Montana historical society shall:

(1) establish and operate the state archives as authorized by appropriation for the purpose of storing, preserving, and providing access to historic records transferred to the custody of the state archives;

(2) in cooperation with the secretary of state, the local government records committee, and the state records committee, establish guidelines to inventory, catalog, retain, transfer, and provide access to all historic records;

(3) maintain and enforce restrictions on access to historic records in the custody of the state archives in accordance with the provisions of this part; and

(4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate records and records considered to have no historical value.

Section 19. Constitutional officer records — Montana historical society. (1) All constitutional officer records are the property of the state. The records must be delivered by outgoing constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise manage them in accordance with the provisions of this section.

(2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall consult with staff members of the Montana historical society and transfer to the Montana historical society all of the constitutional officer records of the prior officeholder that are not necessary to the current operation of that office and are considered worthy of preservation.

(3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers are not subject to this section, but they may be deposited along with the constitutional

officer records at the Montana historical society at the constitutional officer's discretion.

(4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, may restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure.

(5) Any question concerning the transfer or other status of constitutional officer records arising between the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the retention and disposition subcommittee provided for in [section 17].

Section 20. Permanent records — agency responsibilities — state records center. (1) All permanent records no longer required in the current operation of the office where they are made or kept and all records of each agency or activity of the executive branch of state government that has been abolished or discontinued must be maintained by the agency or transferred to the state records center in accordance with approved records retention schedules.

(2) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is merely a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. The state records center may charge fees to cover the cost of records storage and servicing.

(3) Prior to transferring a permanent record to the state records center, the transferring agency shall consult with the state archivist to determine whether the record is also a historic record. If the record is found to be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of [section 18].

Section 21. Agency records management duties. Each department head shall administer the executive branch agency's records management function and shall:

(1) coordinate all aspects of the agency records management function in accordance with procedures prescribed by the secretary of state and the state records committee;

(2) analyze records inventory data and examine and compare all inventories within the agency to minimize duplication of records;

(3) review and approve records disposal requests for submission to the retention and disposition subcommittee;

(4) review established records retention schedules to ensure they are complete and current and make recommendations to the secretary of state and the state records committee regarding minimal retentions for all copies of public records within the agency;

(5) incorporate records management requirements into the agency information technology plan provided for in 2-17-523;

(6) ensure that all agency employees receive appropriate and ongoing records management training; and

(7) after considering guidance from the state records committee regarding records manager qualifications, officially designate a qualified agency records manager to manage the functions provided for in this section.

Section 22. Local government records committee — composition and meetings. (1) There is a local government records committee.

(2) The committee consists of the following eight members:

(a) the state archivist;

(b) the state records manager;

(c) a representative of the department of administration;

(d) two local government records managers appointed by the director of the Montana historical society;

(e) two local government records managers appointed by the secretary of state; and

(f) a person representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer.

(3) Committee members subject to appointment shall hold office for a period of 2 years beginning January 1 of the year following their appointment.

(4) Vacancies must be filled in the same manner they were filled originally.

(5) The committee shall elect a presiding officer and a vice presiding officer.

(6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding officer.

(7) Except for the member appointed in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.

Section 23. Local government records committee — duties and responsibilities. The local government records committee shall:

(1) approve, modify, or disapprove proposals for local government records retention and disposition schedules;

(2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist, one of the local government records managers, and the representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary.

(3) establish a retention and disposition schedule for categories of records for which a disposal request is not required. The local government records

committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be published at least annually.

(4) develop guidance for local governments to identify, maintain, and secure their essential records;

(5) respond to requests for technical advice on matters relating to local government records; and

(6) provide leadership and coordination in matters affecting the records of multiple local governments.

Section 24. Disposal of local government public records prohibited prior to offering — central registry — notification. (1) A local government public record more than 10 years old may not be destroyed unless it is first offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.

(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal.

(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).

(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.

(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.

(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection (3)(d) and the records committee's notice to the entities listed on the registry fulfills the notification requirements of this section.

Section 25. Definitions. As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number or tax identification number;

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the

Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.

Section 26. Protection of personal information — compliance — extensions. (1) Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law.

(2) The procedures must include measures to:

(a) eliminate the unnecessary use of personal information;

(b) identify the person or state agency authorized to have access to personal information;

(c) restrict access to personal information by unauthorized persons or state agencies;

(d) identify circumstances in which redaction of personal information is appropriate;

(e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency;

(f) eliminate the unnecessary storage of personal information on portable devices; and

(g) protect data containing personal information if that data is on a portable device.

(3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation.

(4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of

budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.

Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or a third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer.

Section 28. Custody and reproduction of certain records by secretary of state. (1) The secretary of state is charged with the custody of:

(a) the enrolled copy of the constitution;

(b) all the acts and resolutions passed by the legislature;

(c) the journals of the legislature;

(d) the great seal;

(e) all documents kept or deposited in the secretary of state's office pursuant to law.

(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in [section 15].

(3) The state records committee may approve the disposal of original records once those records are reproduced as provided for in subsection (2) unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.

Section 29. Section 2-3-212, MCA, is amended to read:

"2-3-212. Minutes of meetings — public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

(a) the date, time, and place of the meeting;

(b) a list of the individual members of the public body, agency, or organization who were in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

(4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that minutes taken in compliance with subsection (2) are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order."

Section 30. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs to ~~plaintiff~~ *prevailing party* in certain actions to enforce constitutional right to know. A ~~plaintiff~~ *person alleging a deprivation of rights* who prevails in an action brought in district court to enforce the ~~plaintiff's~~ *person's* rights under Article II, section 9, of the Montana constitution ~~may~~ *may* be awarded costs and reasonable attorney fees."

Section 31. Section 2-3-301, MCA, is amended to read:

"2-3-301. Agency to accept public comment electronically — dissemination of electronic mail address and documents required — ~~prohibiting~~ fees *prohibited.* (1) An agency that accepts public comment

pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana Administrative Procedure Act or an agency to which 2-3-111 applies, shall provide for the receipt of public comment by the agency by use of an electronic mail system.

(2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate media its electronic mail address to which public comment may be made, including dissemination in:

(a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;

(b) the telephone directory of state agencies published by the department of administration;

(c) any notice of agency existence, purpose, and operations published on the internet ~~world wide web, popularly known as a "website", used by the agency~~; or

(d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

(3) An agency shall, at the request of another agency or person and subject to ~~2-6-102~~ *[section 3]*, disseminate the electronic documents to that agency or person by electronic mail in place of surface mail. Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person as provided in 2-4-302(2)(a)(ii). An agency may not charge a fee for providing documents by electronic mail in accordance with this subsection.

(4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as either an electronic or a paper copy to the same extent that other comments are retained.

(5) As used in this section, "agency" means a department, division, bureau, office, board, commission, authority, or other agency of the executive branch of state government."

Section 32. Section 2-15-2017, MCA, is amended to read:

"2-15-2017. Domestic violence fatality review commission — confidentiality of meetings and records — criminal liability for unauthorized disclosure — report to legislature. (1) There is a domestic violence fatality review commission in the department of justice.

(2) The commission shall:

(a) examine the trends and patterns of domestic violence-related fatalities in Montana;

(b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities due to domestic violence.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

(a) representatives from state departments that are involved in issues of domestic abuse;

(b) representatives of private organizations that are involved in issues of domestic abuse;

(c) medical and mental health care providers who are involved in issues of domestic abuse;

(d) representatives from law enforcement, the judiciary, and the state bar of Montana;

(e) representatives of Montana Indian tribes;

(f) other concerned citizens; and

(g) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review closed domestic homicide cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section.

(6) Upon written request from the commission, a person who possesses information or records that are necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential *information as defined in [section 2]* and are ~~exempt from the provisions of Title 2, chapter 6~~ *protected from disclosure*. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than $500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee, the attorney general, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report."

Section 33. Section 5-11-203, MCA, is amended to read:

"5-11-203. Distribution of session laws — ~~inspection~~ *examination* of journals. (1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for ~~inspection~~ *examination* or copying by the public as

provided in ~~Title 2, chapter 6, part 1~~ *[sections 1 through 12]*. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy."

Section 34. Section 7-4-2614, MCA, is amended to read:

"7-4-2614. Records of certificates of discharge from military service. (1) It is the duty of the county clerk of any county of this state to record, without charge and in a book kept for that purpose, the certificate of discharge of an honorably discharged person who served with the United States forces upon that person's request. It is not the clerk's duty to file the certificate.

(2) A record of a military discharge certificate is confidential *information as defined in [section 2]* and ~~exempt from the provisions of Title 2, chapter 6~~ *is protected from disclosure*. A military discharge certificate may be disclosed only to:

(a) the service member for whom the certificate was recorded;

(b) if the service member is deceased, the next of kin of the service member or a mortuary, as defined in 10-2-111, for the purposes of securing the burial benefits to which the service member is entitled;

(c) a veterans' service officer or a veterans' service organization, as defined in 10-2-111;

(d) the veterans' affairs division of the Montana department of military affairs; or

(e) any person with written authorization from the service member or from the next of kin of the service member, if the service member is deceased.

(3) If an original discharge certificate was inadvertently filed and the county clerk still retains the certificate in its original form, upon the written request of the service member or of the service member's next of kin if the service member is deceased, the clerk shall return the filed certificate to the service member or to the service member's next of kin if the service member is deceased.

(4) For purposes of this section:

(a) "file" means to store in original form; and

(b) "record" means to make and keep a copy from which a certified original copy can be reproduced."

Section 35. Section 7-5-2132, MCA, is amended to read:

"7-5-2132. Destruction of county records. Upon the order of the board of county commissioners and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ *[section 23]*, a county officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 36. Section 7-5-4124, MCA, is amended to read:

"7-5-4124. Destruction of municipal records. Upon the order of the city or town council or commission and with the written approval of the local government records destruction subcommittee provided for in ~~2-6-403~~ *[section 23]*, a city or town officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office."

Section 37. Section 7-11-1007, MCA, is amended to read:

"7-11-1007. Public hearing — resolution of intention to create special district. (1) The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the passage of a resolution of intention to create the special district. A resolution of intention to create a special district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).

(2) The resolution must designate:

(a) the proposed name of the special district;

(b) the necessity for the proposed special district;

(c) a general description of the territory or lands to be included within the proposed special district, giving the boundaries of the proposed special district;

(d) the general character of any proposed improvements and the proposed location for the proposed program or improvements;

(e) the estimated cost and method of financing the proposed program or improvements;

(f) any requirements specifically applicable to the type of special district;

(g) whether the proposed special district would be administered by the governing body or an appointed or elected board; and

(h) the duration of the proposed special district.

(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.

(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a ~~mailing~~ *distribution* list in accordance with ~~2-6-109~~ *[section 11]*.

(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county."

Section 38. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

(2) Each election administrator shall prepare a plan for retention and destruction of election records in the county according to the retention schedules established by the local government records committee provided for in ~~2-6-402~~ *[section 22]*."

Section 39. Section 13-21-228, MCA, is amended to read:

"13-21-228. Use of voter's e-mail address. (1) A local election official shall request an e-mail address from each covered voter who registers to vote after January 1, 2014.

(2) An e-mail address provided by a covered voter may not be made available to the public or any individual or organization other than a state or local election official and is ~~exempt from disclosure under Title 2, chapter 6~~ *confidential information as defined in [section 2]*.

(3) The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission and verifying the voter's mailing address and physical location."

Section 40. Section 15-1-103, MCA, is amended to read:

"15-1-103. Disposal of tax records — procedure. (1) Notwithstanding any other provisions of law, the department may dispose of tax records more than 3 years old if the records do not have any further value or as provided in subsection (3).

(2) Authorization for disposal of tax records must be made by the director of the department or authorized employees of the department. A copy of the authorization and authenticated list of the records must be maintained by the department.

(3) The department may dispose of its original tax records after those records have been reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in ~~2-6-208~~ *[section 15]*. The department shall maintain the reproduction as the public record. The reproduction or certified copy of the reproduction may be used in place of the department's original in any court or proceeding and has the same force and effect as the department's original record."

Section 41. Section 15-1-521, MCA, is amended to read:

"15-1-521. Property valuation improvement fund. There is an account in the state special revenue fund to be used by the department for increasing the efficiency of the property appraisal, assessment, and taxation process through improvements in technology and administration. The department shall deposit fees collected pursuant to ~~2-6-110(3)~~ *[section 5]* in the account."

Section 42. Section 15-62-209, MCA, is amended to read:

"15-62-209. Access to records. Information that identifies the contributor, account owner, or designated beneficiary of a family education savings account is ~~exempt from the provisions of 2-6-102 and 2-6-104 and any other~~ *confidential information as defined in [section 2] and is exempt from any* provision of law permitting the public ~~inspection~~ *examination* or copying of documents. The provisions of this section may not prevent the release of information about a specific designated beneficiary to a higher education institution at which the designated beneficiary is enrolled or to which the designated beneficiary has applied for admission."

Section 43. Section 17-8-403, MCA, is amended to read:

"17-8-403. False claims — procedures — penalties. (1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than $5,500 and not more than $11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains, along with expenses, costs, and attorney fees, if the person:

(a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

(b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(c) conspires to commit a violation of this subsection (1);

(d) has possession, custody, or control of public property or money used or to be used by the governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;

(e) is authorized to make or deliver a document certifying receipt of property used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, makes or delivers a receipt without completely knowing that the information on the receipt is true;

(f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental entity from any person who may not lawfully sell or pledge the property;

(g) knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to a governmental entity or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or

(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.

(2) In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than $5,500 and not more than $11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:

(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

(b) The person fully cooperated with any investigation of the act by the government attorney.

(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:

(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;

(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation; or

(iii) the news media.

(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or ~~Title 2, chapter 6,~~ *[section 3]* is not a public disclosure for purposes of this section.

(c) For purposes of this subsection (6), "original source" means an individual who:

(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or

(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.

(7) A person may not file a complaint or civil action brought under 17-8-406 against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.

(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.

(9) If a governmental entity does not intervene, the person who initiated the action has the same right to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity."

Section 44. Section 18-4-126, MCA, is amended to read:

"18-4-126. Public access to procurement information — records — retention. (1) Procurement information is a public ~~writing~~ *record* and must be available to the public as provided in ~~2-6-102~~ *[section 3]*, 18-4-303, and 18-4-304.

(2) All procurement records must be retained, managed, and disposed of in accordance with ~~the state records management program, Title 2, chapter 6~~ *the provisions of [sections 1 through 21]*.

(3) Written determinations required by this chapter must be retained in the appropriate official contract file of the department or the purchasing agency administering the procurement in accordance with ~~the state records management program~~ [*sections 1 through 21]*."

Section 45. Section 19-2-403, MCA, is amended to read:

"19-2-403. Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are employees within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems. A person whose job duties require proportional membership in more than one retirement system is subject to the provisions of those systems.

(5) If fraud or error results in an employee or member being reported to the incorrect retirement system, the board shall correct the error and adjust contributions as necessary.

(6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the appropriate retirement system, entitled to the benefits.

(7) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.

(8) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems.

(9) The board shall enter into memoranda of understanding with the teachers' retirement system to exchange retirement system-related confidential information regarding members, former members, or retirees. A memorandum must state that:

(a) the information may be used only for reasons related to verifying appropriate pension plan participation; and

(b) the requesting retirement system agrees to protect the confidentiality of the information and will disclose the requested information only as necessary to conduct official business.

(10) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

(11) The board shall review the sufficiency of benefits paid by the retirement system or plan and recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard of living.

(12) The board may implement third-party mailings under the provisions of ~~2-6-109~~ *[section 11]*. If third-party mailings are implemented, the board shall adopt rules governing means of implementation, including the specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants of retirement systems or plans administered by the board.

(13) In discharging duties, the board, a member of the board, or an authorized representative of the board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(14) The board may by rule or otherwise delegate to the board's executive director or any other staff member any of the powers or duties conferred by law upon the board except as otherwise provided by law and except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13) or the contested case procedure of the Montana Administrative Procedure Act.

(15) The board shall perform other duties and may exercise the powers concerning the defined contribution plan for plan members as provided in chapter 3, part 21, of this title."

Section 46. Section 19-17-111, MCA, is amended to read:

"19-17-111. Records information management. (1) The chief or designated official of a fire company shall maintain the records provided for in 19-17-108 and 19-17-110 for each active or inactive member of the fire company.

(2) Records must be maintained according to the state of Montana general records retention schedules, as published by the secretary of state pursuant to ~~Title 2, chapter 6~~ *[sections 13 through 21]*."

Section 47. Section 22-1-211, MCA, is amended to read:

"22-1-211. Definitions. As used in this part, the following definitions apply:

(1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.

(2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.

(3) (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the agency, regardless of format or medium, source or copyright, license, or trademark.

(b) The term does not include information intended only for distribution to contractors or grantees of the agency, persons within the agency, or members of the public under ~~2-6-102~~ *[section 3]* or information produced by a state agency that is intended strictly for internal administrative or operational purposes."

Section 48. Section 30-9a-522, MCA, is amended to read:

"30-9A-522. Maintenance and destruction of records. (1) Subject to the requirements of ~~Title 2, chapter 6, part 2~~ *[sections 13 through 21]*, the filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the filed financing statement has lapsed under 30-9A-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and:

(a) if the record was filed or recorded in the filing office described in 30-9A-501(1)(a), by using the file number assigned to the initial financing statement to which the record relates and the date and time that the record was filed or recorded; or

(b) if the record was filed or recorded in the filing office described in 30-9A-501(1)(b), by using the date and time file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office may immediately destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (1)."

Section 49. Section 30-14-1603, MCA, is amended to read:

"30-14-1603. Department to provide for no-call list database — rules — inclusion of national database — database not public record — no cost to subscribers. (1) The department shall provide for the operation of a database containing a list of names and telephone numbers of residential subscribers who object to receiving telephone solicitations. A residential subscriber may be listed in the database without cost to the subscriber.

(2) The department shall promulgate rules and regulations governing the state no-call database that are necessary and appropriate to fully implement the provisions of this part. The rules must include but are not limited to rules specifying:

(a) the methods by which each residential subscriber may give notice to the department or a contractor designated by the department of the residential subscriber's objection to receiving telephone solicitations or the methods by which the residential subscriber may revoke the notice;

(b) the length of time for which a notice of objection is effective and the effect of a change of telephone number on the notice;

(c) the methods by which pertinent information may be collected and added to the no-call database;

(d) the methods for obtaining access to the no-call database by any person or entity desiring to make telephone solicitations if that person or entity is required to avoid calling the residential subscribers included in the no-call database;

(e) the cost to be assessed to a person or entity that is required to obtain access to the no-call database; and

(f) other matters relating to the no-call database that the department considers desirable.

(3) If the federal communications commission establishes a single national database of telephone numbers of residential subscribers who object to receiving telephone solicitations pursuant to 47 U.S.C. 227(c)(3), the department shall include that part of the single national database that relates to Montana in the no-call database established pursuant to this section.

(4) Information contained in the no-call database established pursuant to this section may be used only for the purpose of compliance with 30-14-1602 and this section or in a proceeding or action pursuant to 30-14-1605. The information ~~may not be considered a public record~~ *is confidential information as defined in [section 2]* ~~pursuant to Title 2, chapter 6~~ *and is protected from disclosure*.

(5) In April, July, October, and January of each year, the department shall make a reasonable attempt to obtain subscription listings of residential subscribers in this state who have arranged to be included on any national no-call list and add those names to the state no-call list."

Section 50. Section 30-17-101, MCA, is amended to read:

"30-17-101. Electronic directory of Montana products. (1) (a) The department of commerce shall provide an electronic directory on the internet ~~or world wide web~~ of Montana businesses that market products qualifying as made in Montana or grown in Montana, as described in subsection (5).

(b) The department may make a decision on the appropriateness of listing a business on the electronic directory based upon the content or use of the products offered by the business.

(2) (a) The electronic directory may be compiled from eligible businesses that have contacted the department of commerce and that have agreed to be listed electronically on the internet ~~or world wide web~~. Agreement by a company also means that the company grants permission for inclusion on a ~~mailing~~ *distribution* list pursuant to ~~2-6-109(1)~~ *[section 11(1)]*.

(b) The department of commerce is not responsible for listing a company if that company has not contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having products made in Montana or grown in Montana.

(3) The electronic directory may contain information allowing a potential customer to access directly a business listed in the directory by telephone, mail, or electronic links if the business works with the department of commerce to facilitate and maintain direct access.

(4) The department of commerce may not process orders for a business listed in the electronic directory and is not responsible for handling customer questions or complaints on behalf of a business listed in the electronic directory.

(5) For the purposes of this section, a product is considered made in Montana or grown in Montana if the product has 50% or greater value-added within the state.

(6) For the purposes of this section, "value-added" means a finished product that has been created, made, produced, or enhanced in Montana by Montana residents resulting in a 50% or greater value-added product."

Section 51. Section 32-11-107, MCA, is amended to read:

"32-11-107. Confidentiality. (1) The director and other employees of the department may not disclose information acquired by them in the discharge of their duties under this chapter except to the extent that disclosure of the information is required by law, other than the public records provisions of ~~Title 2, chapter 6,~~ *[section 3],* or is required by court order.

(2) Notwithstanding subsection (1), the department may disclose information that is confidential under subsection (1) if the department determines that disclosure of the information is necessary to promote the public interest. This subsection does not authorize the disclosure of information acquired by the department in the course of an examination of a licensee.

(3) A BIDCO may provide to a current or prospective creditor or shareholder of the BIDCO a copy of an examination report on the BIDCO made by the department under this chapter."

Section 52. Section 33-1-1403, MCA, is amended to read:

"33-1-1403. Confidentiality. (1) The statement of actuarial opinion must be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and is a public ~~writing,~~ *record* within the meaning of ~~2-6-101~~ *[section 2]*.

(2) (a) Actuarial reports, work papers, and actuarial opinion summaries retained by the commissioner are trade secrets and are privileged. The materials must be given confidential treatment, are not subject to subpoena, and are not subject to discovery, and the materials are not admissible in evidence in any private civil litigation.

(b) Subsection (2)(a) does not limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline if the material is required for the board's professional disciplinary proceedings and if the board establishes procedures satisfactory to the commissioner to preserve the confidentiality of the documents.

(3) This section does not limit the commissioner's authority to use the actuarial reports, work papers, actuarial opinion summaries, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(4) The commissioner and any person who receives actuarial reports, work papers, actuarial opinion summaries, or other information while acting under the authority of the commissioner may not testify in any private civil action concerning the documents or information subject to the provisions of subsection (2).

(5) To assist in the performance of the commissioner's duties, the commissioner may provide and receive documents and information pursuant to 33-1-311.

(6) A waiver of privilege or claim of confidentiality in the actuarial reports, work papers, or actuarial opinion summaries does not result from disclosure to the commissioner under this section or result from the exchange of documents and information authorized in subsections (2)(b) and (5)."

Section 53. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) The commissioner or some competent person appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each captive insurance company as often as the commissioner considers advisable but no less frequently than every 5 years.

(b) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public ~~writings~~ *records* as defined in ~~2-6-101~~ *[section 2]*.

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 54. Section 46-23-110, MCA, is amended to read:

"46-23-110. Records — dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in ~~2-6-102~~ *[section 3]* and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the file requested and

determine whether any document in the file is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied."

Section 55. Section 53-21-1108, MCA, is amended to read:

"53-21-1108. (Temporary) Disclosure of information — confidentiality. (1) The department shall provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide as the cause of death. The department may not charge a fee for providing the death certificate.

(2) The suicide review team may request and may receive information from:

(a) a county coroner;

(b) the state medical examiner provided for in 44-3-201;

(c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The suicide review team shall maintain the confidentiality of the information received pursuant to 53-21-1105 through 53-21-1110.

(5) Materials and information obtained by the suicide review team are not subject to subpoena ~~or to the requirements related to public records under Title 2, chapter 6~~*, are confidential information as defined in [section 2], and are protected from disclosure under [section 3]*. (Terminates June 30, 2016—sec. 16, ch. 353, L. 2013.)"

Section 56. Section 61-6-157, MCA, is amended to read:

"61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the

internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or securities under 61-6-138;

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months.

(4) The provisions of ~~Title 2, chapter 6, parts 1 and 2,~~ *[sections 1 through 20]* do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

(a) for a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered."

Section 57. Section 61-11-510, MCA, is amended to read:

"61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought.

(2) The department shall require the requester to provide identification acceptable to the department.

(3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester.

(b) The department shall ensure that fees established by policy or contract:

(i) recover the department's cost and expenses as provided in ~~2-6-110(2)~~ *[section 4]* and 61-3-101;

(ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and

(iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the state tax appeal board, any legislative branch agency or committee, or any criminal justice agency, as defined in 44-5-103."

Section 58. Section 81-2-115, MCA, is amended to read:

"81-2-115. Confidentiality of information collected — exceptions. (1) Except as provided in subsections (2) through (4), all information regarding the testing of any livestock that is owned by or in the possession or custody of a livestock producer, livestock dealer as defined in 81-8-213, or livestock market as defined in 81-8-213 that is collected by the department:

(a) must be held confidential by the department and its employees;

(b) is not a public ~~writing as described in 2-6-101 and is exempt from the public disclosure provisions of Title 2, chapter 6~~ *record or public information as defined in [section 2] and is exempt from disclosure*; and

(c) is not subject to discovery or introduction into evidence in any civil action.

(2) For the purposes of this section, "livestock" has the meaning provided in 81-2-702.

(3) The administrator~~,~~ appointed pursuant to 81-1-301~~,~~ may disclose information collected by the department from individual livestock producers, livestock dealers, or livestock markets for the purposes of the department's animal health programs whenever in the administrator's judgment the disclosure will assist in the implementation of the animal health programs. The administrator may disclose the information to another governmental entity pursuant to the conditions described in subsection (4) or if the governmental entity confirms in writing that the entity will maintain the confidentiality of the information.

(4) Animal disease diagnostic tests that identify the owner of the animal tested may not be disclosed unless:

(a) the administrator determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health;

(b) the owner gives written permission to disclose the information;

(c) the information is disclosed in actions or administrative proceedings commenced under the provisions of Title 81, chapter 2, 4, 5, 6, 8, 9, or 30;

(d) disclosure is required by subpoena or court order; or

(e) the information is disclosed to a law enforcement agency in connection with the investigation or prosecution of criminal offenses.

(5) Upon release by the administrator or the board of any information to any other governmental entity or to any person, the administrator shall:

(a) notify the person to whom the information refers or pertains that the release has been made and the name of the governmental entity or person to whom the information was released; and

(b) provide to the person to whom the information refers a copy or summary of the information contained in the release."

Section 59. Repealer. The following sections of the Montana Code Annotated are repealed:

2-6-101. Definitions.
2-6-102. Citizens entitled to inspect and copy public writings.
2-6-103. Filing and copying fees.
2-6-104. Records of officers open to public inspection.
2-6-105. Removal of public records.
2-6-106. Possession of records.
2-6-107. Proceedings to compel delivery of records.
2-6-108. Attachment and warrant to enforce.
2-6-109. Prohibition on distribution or sale of mailing lists — exceptions — penalty.
2-6-110. Electronic information and nonprint records — public access — fees.
2-6-111. Custody and reproduction of records by secretary of state.
2-6-112. Concealment of public hazards prohibited — concealment of information related to settlement or resolution of civil suits prohibited.
2-6-201. Purpose.
2-6-202. Definitions.
2-6-203. Secretary of state's powers and duties — rulemaking authority.
2-6-204. State records committee approval.
2-6-205. Preservation of public records.
2-6-206. Protection and storage of essential records.
2-6-207. Certified copies of public records.
2-6-208. Records committee — composition and meetings.
2-6-211. Transfer and storage of public records.
2-6-212. Disposal of public records.
2-6-213. Agency responsibilities and transfer schedules.
2-6-214. Department of administration — powers and duties.
2-6-301. Definitions.
2-6-302. Official records management — powers and duties.
2-6-303. Ownership of records — transfer.
2-6-304. Outgoing officials — records management duties.
2-6-307. Certified copies of official records.
2-6-401. Definitions.
2-6-402. Local government records committee — creation.
2-6-403. Duties and responsibilities.
2-6-404. Rulemaking authority.

2-6-405. Destruction of local government public records prohibited prior to offering — central registry — notification.
2-6-501. Definitions.
2-6-502. Protection of social security numbers — compliance.
2-6-503. Extensions.
2-6-504. Notification of breach of security of data system.

Section 60. Codification instruction. (1) [Sections 1 through 27] are intended to be codified as an integral part of Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1 through 27].

(2) [Section 28] is intended to be codified as an integral part of Title 2, chapter 15, part 4, and the provisions of Title 2, chapter 15, part 4, apply to [section 28].

Section 61. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 25 of this act] must be amended as follows:

"NEW SECTION. **Section 25. Definitions.** As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number ~~or tax identification number~~;

(ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account*;*

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or

(vi) an identity protection personal identification number issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency."

Section 62. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 27 of this act] must be amended as follows:

"NEW SECTION. **Section 27. Notification of breach of security of data system.** (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration and to the attorney general's consumer protection office an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer and the consumer protection office."

Section 63. Coordination instruction. If both House Bill No. 448 and [this act] are passed and approved and if both contain a section that amends 2-3-221, then House Bill No. 448 is void.

Section 64. Coordination instruction. If both House Bill No. 28 and [this act] are passed and approved, then the reference in House Bill No. 28 to "2-6-102, 2-6-110" in [section 1(1)(a)] must be changed to "[sections 3 through 5 of House Bill No. 123]".

Section 65. Coordination instruction. If both House Bill No. 608 and [this act] are passed and approved, then the reference in House Bill No. 608 to "2-6-102" in [section 6(3)] must be changed to "[section 3 of House Bill No. 123]".

Section 66. Coordination instruction. If both Senate Bill No. 399 and [this act] are passed and approved, then the reference in Senate Bill No. 399 to "2-6-102 and 2-6-104" in [section 13] must be changed to "[section 3 of House Bill No. 123]".

Section 67. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(1) of House Bill No. 119] must be amended as follows:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential ~~by law~~ *information as provided in [section 2 of House Bill No. 123]* and privileged, *is* not admissible ~~as~~ *in* evidence in any civil action, and *is* not subject to subpoena, discovery, ~~the provisions of 2-6-102,~~ or *the provisions of* the Freedom of Information Act, 5 U.S.C. 552."

Section 68. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(8) of House Bill No. 119] must be amended as follows:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential ~~by law~~ *information as provided in [section 2 of House Bill No. 123]* and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102,~~ subpoena~~,~~ or discovery."

Section 69. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 15(1) of House Bill No. 119] must be amended as follows:

"(1) Except as provided in subsection (9), a company's confidential information is *confidential information as provided in [section 2 of House Bill No. 123]* ~~confidential~~ and privileged*,* ~~and~~ is not subject to subpoena~~,~~ *or*

discovery, ~~or public information requests under 2-6-102 or~~ *and is not* admissible in evidence in any private civil action."

Section 70. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(1) of House Bill No. 119], amending 33-2-116(1), must be amended as follows:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(l), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ *are* confidential ~~by law~~ *information as provided in [section 2 of House Bill No. 123]* and privileged, are not subject to ~~2-6-102,~~ subpoena~~,~~ or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, and other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which the documents, materials, or other information pertains unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would be served by the publication. On a determination that the interest of policyholders, shareholders, or the public would be served, the commissioner may publish all or any part of the documents, materials, or other information in a manner that the commissioner considers appropriate."

Section 71. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(7) of House Bill No. 119], amending 33-2-1116(7), must be amended as follows:

"(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential ~~by law~~ *information as provided in [section 2 of House Bill No. 123]* and privileged, are not admissible in evidence in a private civil action, and are not subject to ~~2-6-102,~~ subpoena~~,~~ or discovery."

Section 72. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved April 29, 2015

CHAPTER NO. 349

[HB 145]

AN ACT CREATING A LIVESTOCK LOSS REDUCTION RESTRICTED ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-3110, 15-1-122, 81-1-110, AND 81-1-112, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Livestock loss reduction restricted account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as

the livestock loss reduction restricted special revenue account. The account is administered by the department.

(2) Except as provided in subsection (5), the money transferred to the account is restricted to the purposes of reducing predation on livestock by wolves and grizzly bears and reducing expenses incurred by livestock owners, including but not limited to veterinary bills, caused by wolves and grizzly bears.

(3) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source intended to be used for either or both of the purposes of subsection (2) must be deposited in the account provided for in subsection (1).

(4) Except as provided in subsection (5), to reduce predation of livestock, the livestock loss board:

(a) shall use at least half of the money transferred into the account pursuant to subsection (2) on nonlethal, preventative measures; and

(b) may use half of the money transferred into the account pursuant to subsection (2) to contract with the United States department of agriculture wildlife services.

(5) Up to 10% of the money in the account may be used for administrative expenses.

Section 2. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board — purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf and grizzly bear management plans and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf and grizzly bear predation.

(2) The board consists of five members, appointed by the governor, as follows:

(a) three members who are actively involved in the livestock industry and who have knowledge and experience with regard to wildlife impacts or management; and

(b) two members of the general public who are or have been actively involved in wildlife conservation or wildlife management and who have knowledge and experience with regard to livestock production or management.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

(4) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

(5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114*,* ~~and~~ 81-1-110 through 81-1-112*, and [section 1]*."

Section 3. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of $59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) The amount of $200,000 is transferred from the state general fund to the livestock loss ~~reduction and~~ mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

~~(4)~~*(4)* For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

~~(5)~~*(5)* The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Section 4. Section 81-1-110, MCA, is amended to read:

"81-1-110. Livestock loss reduction and mitigation accounts. (1) There are livestock loss reduction and mitigation special revenue accounts administered by the department within the state special revenue fund and the federal special revenue fund established in 17-2-102.

(2) (a) All state proceeds allocated or budgeted for the purposes of 2-15-3110 through 2-15-3114, 81-1-110, and 81-1-111, except those transferred to the account provided for in 81-1-112 *or [section 1]* or appropriated to the department of livestock, must be deposited in the state special revenue account provided for in subsection (1) of this section.

(b) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source intended to be used for the purposes of 2-15-3111 through 2-15-3113 must be deposited in the appropriate account provided for in subsection (1) of this section.

(c) All federal funds awarded to the state for compensation for wolf or grizzly bear depredations on livestock must be deposited in the federal special revenue account provided for in subsection (1) for the purposes of 2-15-3112.

(3) The livestock loss board may spend funds in the accounts only to carry out the provisions of 2-15-3111 through 2-15-3113."

Section 5. Section 81-1-112, MCA, is amended to read:

"81-1-112. Livestock loss ~~reduction and~~ mitigation restricted account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the livestock loss ~~reduction and~~ mitigation restricted special revenue account. The account is administered by the department.

(2) ~~Money is~~ *Each fiscal year, the amount provided in 15-1-122(3) is* transferred to the account from the state general fund ~~pursuant to 15-1-122~~ and is restricted to the purpose of making payments to livestock producers for confirmed and probable livestock losses pursuant to 2-15-3112(2). Money in the account may not be expended for administrative expenses.

(3) The livestock loss ~~reduction and~~ mitigation restricted *special revenue* account is statutorily appropriated, as provided in 17-7-502, to the department for the purpose of making payments to livestock producers as provided in subsection (2) of this section.

(4) On June 30 of each year, any unencumbered funds in the account in excess of $300,000 must be transferred to the livestock loss reduction restricted special revenue account established in [section 1]. (Subsection (3) terminates June 30, 2017—sec. 13, Ch. 339, L. 2011.)"

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 81, chapter 1, part 1, and the provisions of Title 81, chapter 1, part 1, apply to [section 1].

Section 7. Effective date. [This act] is effective July 1, 2015.

Section 8. Termination. [This act] terminates June 30, 2021.

Approved April 29, 2015

CHAPTER NO. 350

[HB 356]

AN ACT REVISING FUNDING FOR CAREER AND VOCATIONAL/TECHNICAL EDUCATION; ESTABLISHING REQUIREMENTS RELATED TO INCREASES IN STATE FUNDING; INCREASING DISTRIBUTIONS TO DISTRICTS FOR CAREER AND VOCATIONAL/TECHNICAL EDUCATION FOR THE 2017 BIENNIUM; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-7-306, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-306, MCA, is amended to read:

"20-7-306. Distribution of secondary K-12 career and vocational/technical education funds. (1) The superintendent of public instruction shall categorize secondary K-12 career and vocational/technical education programs according to the relative additional costs of those programs based on weighted factors, including but not limited to:

(a) K-12 career and vocational/technical education enrollment;

(b) approved career and technical student organizations;

(c) field supervision of students beyond the school year for K-12 career and vocational/technical education; and

(d) district expenditures related to the K-12 career and vocational/technical education programs.

(2) The superintendent of public instruction shall adjust the weighted factors outlined in subsection (1) as necessary to ensure that the allocations do not exceed the amount appropriated.

(3) Except for other expenditures outlined in subsection (1)(d), funding must be based upon the calculation for secondary K-12 career and vocational/technical education programs of the high school district in the year preceding the year for which funding is requested. Funding for the expenditures referred to in subsection (1)(d) must be based on the calculation for the secondary K-12 career and vocational/technical education programs of the high school district for the 2 years preceding the year for which funding is requested. The funding must be computed for each separate secondary K-12 career and vocational/technical education program.

(4) For secondary career and vocational/technical education programs, the total funding must be distributed to eligible programs based on the four factors listed in subsections (1)(a) through (1)(d).

(5) The superintendent of public instruction shall annually distribute the funds allocated in this section by November 1. The money received by the high school district must be deposited into the subfund of the miscellaneous programs fund established by 20-9-507 and may be expended only for approved secondary K-12 career and vocational/technical education programs. The expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

(6) Any increase in the amount distributed to a school district from the biennial state appropriation for secondary K-12 career and vocational/technical education must be used for the expansion and enhancement of career and vocational/technical education programs and may not be used to reduce previous district spending on career and vocational/technical education programs."

Section 2. Appropriation. (1) There is appropriated $1 million from the general fund to the office of public instruction in each year of the biennium beginning July 1, 2015.

(2) The appropriation is for the purpose of expanding and enhancing secondary K-12 career and vocational/technical education through distributions pursuant to 20-7-305 and 20-7-306.

Section 3. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 contains an appropriation for the expansion and enhancement of secondary K-12 career and vocational/technical education, then [section 2 of this act] is void.

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 351

[HB 374]

AN ACT REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO DEVELOP SUICIDE AWARENESS AND PREVENTION TRAINING MATERIALS FOR SCHOOL DISTRICT EMPLOYEES; RECOMMENDING AT LEAST 2 HOURS OF TRAINING EVERY 5 YEARS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana's Suicide Awareness and Prevention Training Act is based on The Jason Flatt Act model legislation that has been adopted in over a dozen states, where this legislation has been implemented to positively impact hundreds of thousands of teachers and millions of students around the country.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 and 2] may be cited as the "Suicide Awareness and Prevention Training Act".

Section 2. Youth suicide awareness and prevention training. (1) The office of public instruction shall provide guidance and technical assistance to Montana schools on youth suicide awareness and prevention training materials. All training materials offered must be approved by the office of public instruction, meet the standards for professional development in the state, and be periodically reviewed by a qualified person or committee for consistency with generally accepted principles of youth suicide awareness and prevention training.

(2) The legislature recommends that youth suicide awareness and prevention training be made available annually to each employee of a school district and to staff of the office of public instruction who work directly with any students enrolled in Montana public schools. The training must be provided at no cost to the employee. The training may be offered through any method of training identified in subsection (3).

(3) The legislature recommends that employees under subsection (2) take at least 2 hours of youth suicide awareness and prevention training every 5 years. Appropriate methods for delivery of the training include:

(a) in-person attendance at a live training;

(b) videoconference;

(c) an individual program of study of designated materials;

(d) self-review modules available online; and

(e) any other method chosen by the local school board that is consistent with professional development standards.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [sections 1 and 2].

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 352

[HB 421]

AN ACT REVISING THE COAL SEVERANCE TAX COAL WASHING CREDIT; EXTENDING THE TERMINATION DATE OF THE COAL WASHING CREDIT BY 8 YEARS; AMENDING SECTION 7, CHAPTER 433, LAWS OF 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7, Chapter 433, Laws of 2009, is amended to read:

"**Section 7. Termination.** The amendment in [section 3(5)] defining "coal washing" and the amendment in [section 3(6)] revising the definition of "contract sales price" terminate July 1, ~~2017~~ *2025*."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 29, 2015

CHAPTER NO. 353

[HB 430]

AN ACT PROVIDING FOR AN INTERIM JUDICIAL REDISTRICTING COMMISSION; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Judicial redistricting commission. (1) There is a judicial redistricting commission. The commission consists of the following seven members:

(a) a legislative member jointly appointed by the majority leaders of the house and the senate;

(b) a legislative member who is from the opposite chamber of the person appointed under subsection (1)(a) and who is jointly appointed by the minority leaders of the house and the senate;

(c) two district court judges appointed by the chief justice of the supreme court;

(d) a district court clerk appointed by the Montana association of clerks of district court;

(e) a county commissioner appointed by the Montana association of counties; and

(f) a member of the state bar of Montana appointed by the president of the state bar of Montana.

(2) The commission shall study whether judicial redistricting is necessary as determined by the following factors:

(a) the population of the judicial districts as determined by the latest figures prepared and issued by the United States census bureau;

(b) each judicial district's weighted caseload as determined by judicial workload studies;

(c) the relative proportions of civil, criminal, juvenile, and family law cases in each judicial district;

(d) the extent to which special masters, alternative dispute resolution techniques, and other measures have been used in the judicial districts;

(e) the distances in highway miles between county seats in existing judicial districts and any judicial districts that may be proposed by the commission;

(f) the impact on counties of any changes proposed in the judicial districts; and

(g) any other factors that the commission considers significant to the determination of whether the state's judicial districts should be redistricted.

(3) The commission shall report the results of its study to the 65th regular session of the legislature. If the commission determines that redistricting is necessary based on the factors provided in subsection (2), the commission shall recommend legislation to redistrict the state's judicial districts for introduction in the 65th regular session of the legislature.

(4) Commission members appointed under subsection (1) shall be appointed within 30 days of [the effective date of this act]. If a vacancy occurs, a new member must be selected in the same manner as the original appointment. Commission member terms expire June 30, 2017.

(5) (a) A member of the commission who is not a legislator or an employee of the state or a political subdivision of the state is eligible to be reimbursed and compensated as provided in 2-15-124(7).

(b) A member of the commission who is not a legislator but is an employee of the state or a political subdivision of the state is not entitled to compensation but is entitled to be reimbursed for expenses as provided in 2-18-501 through 2-18-503.

(c) A legislator who is a member of the commission is eligible to be compensated and reimbursed as provided in 5-2-302.

(6) At the commission's first meeting, a majority of commission members shall select a presiding officer.

(7) The legislative services division shall provide staff assistance to the judicial redistricting commission.

Section 2. Appropriation. There is appropriated $20,170 from the general fund to the legislative services division for the biennium beginning July 1, 2015, to support the commission provided for in [section 1].

Section 3. Effective date. [This act] is effective July 1, 2015.

Section 4. Termination. [This act] terminates June 30, 2017.

Approved April 29, 2015

CHAPTER NO. 354

[HB 472]

AN ACT REVISING LAWS RELATING TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PERMANENTLY ESTABLISHING THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; PROVIDING

POWERS, DUTIES, AND INVESTIGATIVE PROCEDURES OF THE OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE THE OMBUDSMAN WITH CERTAIN REPORTS; PROVIDING PRIVILEGE; TRANSFERRING APPROPRIATION AUTHORITY; AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Office of child and family ombudsman established. (1) There is an office of the child and family ombudsman within the department of justice provided for in 2-15-2001.

(2) The attorney general shall appoint a person who is a resident of this state and is qualified by training and experience to perform the duties of the ombudsman.

Section 2. Purpose and intent. The legislature finds that an independent, impartial, and confidential ombudsman serves:

(1) to protect the interests and rights of Montana's children and families; and

(2) to strengthen child and family services by working in collaboration with the department and with appropriate county attorneys in cases under review.

Section 3. Definitions. For the purposes of [sections 1 through 6], the following definitions apply:

(1) "Administrative act" means a department action, omission, decision, rule, interpretation, recommendation, policy, practice, or procedure relating to child and family services.

(2) "Child and family services" means services provided by the department under this chapter.

(3) "Ombudsman" means the person holding the position of the child and family ombudsman.

(4) "Request for assistance" means a request by a person asking the ombudsman for assistance in protecting the rights or interests of a child or family in this state.

Section 4. Powers and duties. The powers and duties of the ombudsman are:

(1) to respond to requests for assistance regarding administrative acts and to investigate administrative acts;

(2) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to [section 7];

(3) to inspect, copy, or subpoena records as needed to perform the ombudsman's duties under [sections 1 through 6];

(4) to take appropriate steps to ensure that persons are made aware of the purpose, services, and procedures of the ombudsman and how to contact the ombudsman;

(5) to share relevant findings related to an investigation, subject to disclosure restrictions and confidentiality requirements, with individuals or entities legally authorized to receive, inspect, or investigate reports of child abuse or neglect;

(6) to periodically review department procedures and promote best practices and effective programs by working collaboratively with the department to improve procedures, practices, and programs;

(7) to undertake, participate in, and cooperate with persons and the department in activities, including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the manner in which the department functions;

(8) to provide education on the legal rights of children;

(9) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of carrying out the ombudsman's responsibilities; and

(10) to report annually to the attorney general and the children, families, health, and human services interim committee. The report must be public and may contain recommendations from the ombudsman regarding systematic improvements for the department.

Section 5. Investigations — discretion — procedure. (1) The ombudsman shall investigate a request for assistance unless:

(a) the request for assistance could reasonably be addressed by another remedy or channel;

(b) the request for assistance is trivial, frivolous, vexatious, or not made in good faith;

(c) the request for assistance is too delayed to justify an investigation;

(d) the person requesting assistance is not personally aggrieved by the subject matter of the request; or

(e) the request for assistance has been previously investigated by the ombudsman.

(2) (a) After an investigation is completed, the ombudsman shall provide to the department any findings, conclusions, and recommendations.

(b) At the ombudsman's request, the department shall inform the ombudsman in a timely manner about any action taken to address or any reasons for not addressing the ombudsman's findings, conclusions, and recommendations.

Section 6. Privilege. The ombudsman may not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of the ombudsman's official duties, except as necessary to enforce the provisions of [sections 1 through 6].

Section 7. Reports to office of child and family ombudsman. The department shall report to the office of the child and family ombudsman:

(1) within 1 business day, a death of a child who, within the last 12 months:

(a) had been the subject of a report of abuse or neglect;

(b) had been the subject of an investigation of alleged abuse or neglect;

(c) was in out-of-home care at the time of the child's death; or

(d) had received services from the department under a voluntary protective services agreement;

(2) within 5 business days:

(a) any criminal act concerning the abuse or neglect of a child;

(b) any critical incident, including but not limited to elopement, a suicide attempt, rape, nonroutine hospitalizations, and neglect or abuse by a substitute care provider, involving a child who is receiving services from the department pursuant to this chapter; or

(c) a third report received within the last 12 months about a child at risk of or who is suspected of being abused or neglected.

Section 8. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality — disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (8) and (9), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, [ombudsman,] or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred; ~~or~~

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred*; or*

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (4)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(5) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, [the office of the child and family ombudsman provided for in 41-3-1201,] and the child's assigned attorney, guardian ad litem, or special advocate.

(6) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(7) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(8) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (4). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(9) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (8) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(10) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(11) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be

provided without cost. (Bracketed language in subsections (3)(a) and (5) terminates June 30, 2015—sec. 12, Ch. 333, L. 2013.)"

Section 9. Section 41-3-208, MCA, is amended to read:

"41-3-208. Rulemaking authority. (1) The department of public health and human services shall adopt rules to govern the procedures used by department personnel in preparing and processing reports and in making investigations authorized by this chapter.

(2) The department may adopt rules to govern the disclosure of case records containing reports of child abuse and neglect.

(3) The department shall adopt a rule specifying the procedure to be used for the release and disclosure of records as provided in 41-3-205(4). In adopting the rule, the department shall collaborate with the attorney general*, the office of the child and family ombudsman,* and appropriate county attorneys, law enforcement agencies, and county interdisciplinary child information and school safety teams established pursuant to 52-2-211."

Section 10. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 41, chapter 3, part 12, and the provisions of Title 41, chapter 3, part 12, apply to [sections 1 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 41, chapter 3, part 2, and the provisions of Title 41, chapter 3, part 2, apply to [section 7].

Section 11. Coordination instruction. (1) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains a general fund appropriation that would allow the department of justice to increase the staff of the office of the child and family ombudsman, then the appropriation in House Bill No. 2 must be reduced by $85,741 in each year of the biennium from the department of public health and human services and $85,741 of general fund is appropriated in each year of the biennium to the department of justice to increase the staff of the ombudsman office.

(2) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 does not contain an appropriation to increase the staff of the office of the child and family ombudsman, then $85,741 of general fund must be transferred from the department of public health and human services and is appropriated to the department of justice in each year of the biennium to increase the staff for the office.

Section 12. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 355

[HB 483]

AN ACT RAISING THE PENSION BENEFIT AVAILABLE TO AN ELIGIBLE MEMBER UNDER THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; AMENDING SECTION 19-17-404, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-17-404, MCA, is amended to read:

"19-17-404. Amount of pension benefits. (1) A member is eligible to receive a pension benefit as provided in this section.

(2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to an eligible member is ~~$150~~ *$175* a month.

(b) A partial pension benefit paid to an eligible member is calculated by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.

(c) Except as provided in subsection (3), the full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by $7.50 a month for each additional year of active service the member completed after 20 years of service, up to 30 total years of service.

(3) (a) Subject to subsection (3)(b), the pension benefit of a member who continues to be a member after completing 30 years of credited service must be increased by $7.50 ~~per~~ *a* month for each additional year of credited service after 30 years if the pension trust fund is actuarially sound and the amortization period for any unfunded liabilities remains 20 years or less.

(b) A member does not have a contract right to any additional pension benefits received pursuant to subsection (3)(a), and the member's monthly benefit must be reduced to the amount provided under subsection (2)(c) if the amortization period for the unfunded liabilities is greater than 20 years.

(c) This subsection (3) applies only to members who retire after July 1, 2011."

Section 2. Effective date. [This act] is effective January 1, 2016.

Approved April 29, 2015

CHAPTER NO. 356

[HB 504]

AN ACT REVISING LAWS GOVERNING RURAL FIRE DISTRICTS AND FIRE SERVICE AREAS; ALLOWING FOR CONSOLIDATION OF RURAL FIRE DISTRICTS AND FIRE SERVICE AREAS TO CREATE A NEW RURAL FIRE DISTRICT; REQUIRING A PLAN OF CONSOLIDATION TO STATE IF THERE WILL BE MUTUAL ASSUMPTION OF INDEBTEDNESS; CLARIFYING MILL LEVY AUTHORITY; PROHIBITING CONSOLIDATION IF THE GOVERNING BOARDS DO NOT AGREE ON ASSUMPTION OF INDEBTEDNESS; AMENDING SECTIONS 7-33-2120 AND 7-33-2401, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-33-2120, MCA, is amended to read:

"7-33-2120. Consolidation of fire districts *and fire service areas* — mill levy limitations. (1) Two or more rural fire districts *or rural fire districts and fire service areas established pursuant to 7-33-2401* may consolidate to form a single rural fire district upon an affirmative vote of each *of the consolidating* rural fire district's *or fire service area's* ~~board of trustees~~ *governing board*.

(2) (a) At the time they vote to consolidate, the *governing* boards ~~of trustees~~ shall also adopt a consolidation plan. The plan must contain:

~~(a)~~*(i)* a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for protests to the creation of the ~~consolidated~~ *new* rural fire district under subsection ~~(3)~~ *(4)*;

~~(b)~~*(ii)* the name of the new rural fire district;

~~(c)~~*(iii)* a boundary map of the new rural fire district; and

~~(d)~~*(iv)* the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(b) The consolidation plan must state if the consolidation is to be made with or without the mutual assumption of the warrant or bonded indebtedness of each district or fire service area. Without agreement among the governing boards on the assumption of warrant or bonded indebtedness, the consolidation may not occur.

~~(2)~~*(3) (a)* Within 14 days of the date that the ~~trustees~~ *governing boards* vote to consolidate, notice of the consolidation must be*:*

(i) published as provided in 7-1-2121 or as provided in 7-1-4127 if the district or part of the district is in an incorporated third-class city or town in each county in which any part of the consolidated fire district will be located~~.~~*; and*

(ii) mailed as provided in 7-1-2122 or as provided in 7-1-4129 if the proposed district or part of the district is in an incorporated third-class city or town to each registered voter and real property owner residing in the proposed new district.

(b) A public hearing on the consolidation must be held within 14 days of the first publication *and mailing* of notice. The hearing must be held before the joint *governing* boards ~~of trustees~~ at a time and place set forth in the ~~publication of~~ notice.

~~(3)~~*(4)* Real property owners in each affected rural fire district *or fire service area* may submit written protests opposing consolidation to the ~~trustees~~ *governing boards* of their district *or fire service area*. If within ~~21~~ *30* days of the first publication of notice the owners of 40% or more of the real property in an existing district *or fire service area* and owners of property representing 40% or more of the taxable value of property in an existing district *or fire service area* protest the consolidation, it is void.

~~(4)~~*(5)* After consolidation, the former rural fire districts *and fire service areas* constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106.

~~(5)~~*(6) (a)* ~~The~~ *Subject to the provisions of subsections (6)(b) and (6)(c), the* consolidation of two or more rural fire districts *or rural fire districts and fire service areas* pursuant to this section results in the creation of a new rural fire district for the purposes of determining mill levy limitations.

(b) The mill levy authority under 15-10-420 for each former rural fire district that is consolidated under this section must be aggregated to establish the base mill levy authority for the new district in the year following consolidation.

(c) If the electors of a former rural fire district have approved mill levy authority for the district in excess of the limit established in 15-10-420 pursuant to an election held under 15-10-425, the authority applies to the new district under the limitations established by the electors.

(7) For the purposes of this section, "governing board" means the board of trustees of a rural fire district or fire service area or a board of county commissioners that governs a fire service area as provided in 7-33-2403(1)(a)."

Section 2. Section 7-33-2401, MCA, is amended to read:

"7-33-2401. Fire service area — establishment — alteration — dissolution. (1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice as provided in 7-1-2121;

(b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;

(c) at the public hearing:

(i) accept written protests from property owners of the area of the proposed area; and

(ii) receive general protests and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service, or any other matter relating to the proposed fire service area; and

(d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date more than 50% of the property owners of the proposed fire service area protest its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) *(a)* The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the procedures provided in subsection (2). The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town, using the procedures provided in subsection (2). ~~Any~~ *Except as provided in 7-33-2120(2)(b), any* existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area.

(b) A fire service area that consolidates with a rural fire district as provided in 7-33-2120 is considered to be dissolved."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 357

[SB 7]

AN ACT REVISING THE PRESCRIPTION DRUG REGISTRY FEE; INCREASING THE FEE; EXTENDING THE TERMINATION DATE; AMENDING SECTION 37-7-1511, MCA; AMENDING SECTION 20, CHAPTER 241, LAWS OF 2011; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-7-1511, MCA, is amended to read:

"37-7-1511. Prescription drug registry — funding. (1) Each person licensed under Title 37 who ~~prescribes, dispenses, or distributes~~ *is authorized to prescribe, dispense, or distribute* controlled substances shall pay to the board a nonrefundable fee that is set by rule ~~and that may not exceed $15~~ *commensurate with costs, not to exceed $30*.

(2) The board may apply for any available grants and may accept gifts, grants, or donations to assist in establishing and maintaining the registry.

(3) Funds collected pursuant to this part must be deposited into a state special revenue account to the credit of the department. The money must be used to defray the expenses of the board in establishing and maintaining the registry and in discharging its administrative and regulatory duties under this part. (Subsection (1) terminates ~~July 1, 2015~~ *June 30, 2017*~~—sec. 20, Ch. 241, L. 2011~~.)"

Section 2. Section 20, Chapter 241, Laws of 2011, is amended to read:

"**Section 20. Termination.** [Section 12(1)] terminates ~~July 1, 2015~~ *June 30, 2017*."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 358

[SB 93]

AN ACT CREATING A RESTRICTED-USE DRIVING PERMIT; ALLOWING A PERSON WHO MAY NOT BE ISSUED A DRIVER'S LICENSE UNDER THE INTERSTATE DRIVER LICENSE COMPACT TO PETITION A DISTRICT COURT FOR A RESTRICTED-USE DRIVING PERMIT; PROVIDING ELIGIBILITY REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-5-105 AND 61-5-212, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Restricted-use driving permit — conditions — definitions. (1) A person who, pursuant to 61-5-105(2), may not be issued a driver's license due to an ineligible status reported by another state to the national driver register may petition the district court of the county in which the person resides for a restricted-use driving permit for use only within the state of Montana if:

(a) the person has maintained continuous residence in Montana for at least 5 years and is not otherwise ineligible for a license under 61-5-105;

(b) the person submits a certified driving record from the licensing agency of each state that has reported the person's status as ineligible to the national driver register that shows that at least 5 years have elapsed from the effective date of the most recent withdrawal of the person's driver's license or driving privileges by the other state or states;

(c) for the 5-year period immediately preceding application for a restricted-use driving permit, the person has not been convicted in any jurisdiction of a felony or misdemeanor offense;

(d) the person certifies that no traffic citations or alcohol-related or drug-related criminal charges are currently pending against the person;

(e) the person certifies that a good faith effort was made to resolve the person's ineligible status through the licensing agency of each state or states that reported the person's status as ineligible to the national driver register, including the payment of any pending fees or fines; and

(f) the person provides any other information required by department rule.

(2) The department may adopt rules to determine the process for issuance, withdrawal, and monitoring of a restricted-use driving permit. The department may issue a restricted-use driving permit only to a person who satisfies all of the requirements of this section as determined by a district court pursuant to

subsection (1). A person who is issued a restricted-use driving permit may use it only for an essential driving purpose as defined by the department.

(3) For purposes of this section, the following definitions apply:

(a) "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or driving privilege underlying a current ineligible status report made by another state's licensing agency to the national driver register.

(b) "National driver register" means the registry established under 49 U.S.C. 30302.

(c) "Restricted-use driving permit" means a paper document authorizing a person to drive within this state for essential driving purposes only that is issued by the department to a person whose status on the national driver register is reported as ineligible to operate a motor vehicle other than a commercial motor vehicle.

Section 2. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license or driving privilege is currently suspended, revoked, or canceled*, except as provided in [section 1],* or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations~~;~~.

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway;

(9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

(10) whose presence in the United States is not authorized under federal law. When an applicant who is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. The department may not accept a driver's license issued by another state as proof that an applicant is lawfully present in the United States under federal law."

Section 3. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked — penalty — second offense of driving without valid license or licensing exemption — seizure of vehicle or rendering vehicle inoperable. (1) (a) A person commits the offense of driving a motor vehicle without a valid license or without statutory exemption or during a suspension or revocation period if the person drives:

(i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or apply for and be issued a driver's license is suspended or revoked in this state or any other state *unless the person has obtained a restricted-use driving permit under [section 1]*;

(ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle or from obtaining a commercial driver's license; or

(iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.

(b) (i) Except as provided in subsection (1)(b)(ii), a person convicted of the offense of driving a motor vehicle without a valid driver's license or without proof of a statutory exemption for the second time or driving during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than $500.

(ii) If the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the person shall be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed $2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

(2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and be issued a driver's license was suspended or revoked, the department shall extend the period of suspension or revocation for an additional 1-year period.

(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled or the person was disqualified from operating a commercial motor vehicle under federal regulations, the department shall suspend the person's commercial driver's license in accordance with 61-8-802.

(3) The vehicle owned and operated at the time of an offense under this section by a person whose driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, 61-8-410, or 61-8-411 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted person's county of residence for a period of 30 days.

(4) The sentencing court shall order the action provided for under subsection (3) and shall specify the date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered inoperable by the sheriff within 10 days after the conviction.

(5) A convicted person is responsible for all costs associated with actions taken under subsection (3). Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who is determined to be without fault.

(6) A court may not suspend or defer imposition of penalties provided by this section."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 5, and the provisions of Title 61, chapter 5, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved April 29, 2015

CHAPTER NO. 359

[SB 128]

AN ACT ESTABLISHING A SCHOOL FUNDING INTERIM COMMISSION; PROVIDING THAT THE COMMISSION BE FORMED AT LEAST ONCE EVERY 10 YEARS; REQUIRING THE COMMISSION TO CONDUCT A STUDY OF THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR COMMISSION MEMBERSHIP AND STAFFING; REQUIRING ISSUANCE OF A REPORT; AMENDING SECTION 20-9-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. School funding interim commission. (1) There is a school funding interim commission that must be formed during the 2015-2016 interim and each successive fifth interim pursuant to 20-9-309. The commission shall:

(a) conduct a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and

(b) if necessary, recommend to the following legislature changes to the state's funding formula.

(2) In conducting the study, the commission may:

(a) review the work of previous studies and commissions;

(b) consider recommendations and topics provided by other interim or standing legislative committees, the board of public education, the office of public instruction, the governor's office, private organizations, professional educators, school trustees, and members of the public;

(c) review how the state's education funding policy has evolved as a result of litigation;

(d) seek input from representatives from the board of public education, the office of public instruction, the governor's office, private organizations, professional educators, school trustees, and members of the public;

(e) consider the state's existing and projected financial resources as well as the needs and concerns of Montana taxpayers;

(f) authorize research and studies to be conducted by reputable and reliable experts in the public or private sectors; and

(g) request research and analysis from the legislative fiscal division, the office of public instruction, the department of revenue, and any other state agency or entity that maintains information or data relevant to the study.

(3) The members of the commission are:

(a) six members of the house of representatives, three from the majority party and three from the minority party, appointed by the speaker of the house in consultation with the house majority leader and the house minority leader;

(b) six members of the senate, three from the majority party and three from the minority party, appointed by the president of the senate in consultation with the senate majority leader and the senate minority leader; and

(c) four members of the public to be appointed as follows:

(i) two public members appointed by the speaker of the house with the consent of the house minority leader; and

(ii) two public members appointed by the president of the senate with the consent of the senate minority leader.

(4) The commission shall select its presiding officer at the first meeting of the commission.

(5) The commission is attached for administrative purposes to the legislative services division, and the legislative services division shall provide sufficient and appropriate support to the commission in order that it may carry out its statutory duties, within the limitations of legislative appropriations.

(6) The commission is staffed by the legislative services division. The legislative fiscal analyst shall assign staff to assist the commission.

(7) The commission shall issue a report on the commission's findings and recommendations, including any draft legislation for amending the state school funding formula, by no later than the 15th of September preceding the next regular legislative session.

(8) Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to the commission is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

Section 2. Section 20-9-309, MCA, is amended to read:

"20-9-309. Basic system of free quality public elementary and secondary schools defined — identifying educationally relevant factors — establishment of funding formula and budgetary structure — legislative review. (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to provide a basic system of free quality public elementary and secondary schools throughout the state of Montana that will guarantee equality of educational opportunity to all.

(2) As used in this section, a "basic system of free quality public elementary and secondary schools" means:

(a) the educational program specified by the accreditation standards provided for in 20-7-111, which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built;

(b) educational programs to provide for students with special needs, such as:

(i) a child with a disability, as defined in 20-7-401;

(ii) an at-risk student;

(iii) a student with limited English proficiency;

(iv) a child who is qualified for services under 29 U.S.C. 794; and

(v) gifted and talented children, as defined in 20-7-901;

(c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;

(d) qualified and effective teachers or administrators and qualified staff to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and distance learning technologies associated with meeting the accreditation standards;

(f) transportation of students pursuant to Title 20, chapter 10;

(g) a procedure to assess and track student achievement in the programs established pursuant to subsections (2)(a) through (2)(c); and

(h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.

(3) In developing a mechanism to fund the basic system of free quality public elementary and secondary schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the following educationally relevant factors:

(a) the number of students in a district;

(b) the needs of isolated schools with low population density;

(c) the needs of urban schools with high population density;

(d) the needs of students with special needs, such as a child with a disability, an at-risk student, a student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and gifted and talented children;

(e) the needs of American Indian students; and

(f) the ability of school districts to attract and retain qualified educators and other personnel.

(4) ~~By July 1, 2007, the~~ *The* legislature shall:

(a) determine the costs of providing the basic system of free quality public elementary and secondary schools;

(b) establish a funding formula that:

(i) is based on the definition of a basic system of free quality public elementary and secondary schools and reflects the costs associated with providing that system as determined in subsection (4)(a);

(ii) allows the legislature to adjust the funding formula based on the educationally relevant factors identified in this section;

(iii) is self-executing and includes a mechanism for annual inflationary adjustments;

(iv) is based on state laws;

(v) is based on federal education laws consistent with Montana's constitution and laws; and

(vi) distributes to school districts in an equitable manner the state's share of the costs of the basic system of free quality public elementary and secondary schools; and

(c) consolidate the budgetary fund structure to create the number and types of funds necessary to provide school districts with the greatest budgetary flexibility while ensuring accountability and efficiency.

(5) At least every 10 years ~~following April 7, 2005,~~ the legislature shall~~:~~

~~(a) authorize a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and~~

~~(b) if necessary, incorporate the results of those assessments into the state's funding formula~~ *form the school funding interim commission pursuant to [section 1] for the purpose of reassessing the state's school funding formula*."

Section 3. Appropriation. There is appropriated from the general fund to the legislative services division for the biennium beginning July 1, 2015, $55,000 for the purposes of convening the commission under [section 1]. It is intended that the commission hold one 1-week meeting in each year of the biennium.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, and the provisions of Title 5 apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 29, 2015

CHAPTER NO. 360

[SB 136]

AN ACT LIMITING THE COLLECTION OF FEES FOR THE GENERATION OF REMEDIATION WASTE; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-10-403, MCA, is amended to read:

"75-10-403. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any hazardous waste into or onto the land or water so that the hazardous waste or any constituent of the hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(4) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

(5) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(6) "Generation" means the act or process of producing waste material.

(7) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

(8) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

(9) "Hazardous waste management" means the management of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(10) "Hazardous waste transfer facility" means any land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period of 10 days or less during the normal course of transportation up to but not including the point of ultimate treatment, storage, or disposal.

(11) "Manifest" means the shipping document that is originated and signed by the generator and that is used to identify the hazardous waste and its quantity, origin, and destination during its transportation.

(12) "Person" means the United States, an individual, firm, trust, estate, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(13) "Remediation waste" means, for the purposes of fee assessment only, all hazardous waste, debris, and media, including ground water, surface water, soils, and sediments, that are managed for implementing cleanup.

~~(13)~~*(14)* "Storage" means the actual or intended containment of hazardous wastes, either on a temporary basis or for a period of years.

~~(14)~~*(15)* "Transportation" means the movement of hazardous wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

~~(15)~~*(16)* "Transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.

~~(16)~~*(17)* "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or so as to render it nonhazardous, safer for transportation, amenable for recovery, amenable for storage, or reduced in volume.

~~(17)~~*(18)* "Used oil" means any oil that has been refined from crude oil or any synthetic oil, either of which has been used and as a result of that use is contaminated by physical or chemical impurities."

Section 2. Section 75-10-405, MCA, is amended to read:

"75-10-405. Administrative rules. (1) The department may, subject to the provisions of 75-10-107, adopt, amend, or repeal rules governing hazardous waste and used oil, including but not limited to the following:

(a) identification and classification of those hazardous wastes *that are* subject to regulation and those that are not;

(b) requirements for the proper treatment, storage, transportation, and disposal of hazardous waste;

(c) requirements for siting, design, operation, maintenance, monitoring, inspection, closure, postclosure, and reclamation of hazardous waste management facilities;

(d) requirements for the issuance, denial, reissuance, modification, and revocation of permits for hazardous waste management facilities;

(e) requirements for corrective action within and outside facility boundaries and for financial assurance of that corrective action;

(f) requirements for manifests and the manifest system for tracking hazardous waste and for reporting and recordkeeping by generators, transporters, and owners and operators of hazardous waste management facilities;

(g) requirements for training of facility personnel, for financial assurance of facility owners and operators, and for liability of guarantors providing financial assurance;

(h) requirements for registration of generators and transporters;

(i) establishing a schedule of fees and procedures for the collection of fees for:

(i) the filing and review of hazardous waste management facility permits as provided in 75-10-432;

(ii) hazardous waste management as provided in 75-10-433;

(iii) the reissuance and modification of hazardous waste management facility permits; and

(iv) the registration of hazardous waste generators~~;~~. *Fees imposed for a facility or a site as a result of the generation of remediation waste may not exceed $25,000 annually.*

(j) a schedule of fees to defray a portion of the costs of establishing, operating, and maintaining any state hazardous waste management facility authorized by 75-10-412;

(k) requirements for availability to the public of information obtained by the department regarding facilities and sites used for the treatment, storage, and disposal of hazardous wastes;

(l) procedures for the assessment of administrative penalties as authorized by 75-10-424;

(m) identification and classification of used oil that is subject to regulation and used oil that is not subject to regulation;

(n) requirements for the proper management of used oil; and

(o) other rules that are necessary to obtain and maintain authorization under the federal program.

(2) Notwithstanding the provisions of 75-10-107, the department may not adopt rules under this part that are more restrictive than those promulgated by the federal government under the Resource Conservation and Recovery Act of 1976, as amended, except that the department:

(a) may require the registration of transporters not otherwise required to register with the state of Montana pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;

(b) may require hazardous waste generators and hazardous waste management facilities to report on an annual rather than on a biennial basis;

(c) may adopt regulatory requirements for hazardous waste transfer facilities;

(d) shall require the owner or manager of any proposed commercial facility for the storage, collection, or transfer of hazardous waste to conduct a public hearing, as provided for in 75-10-441; and

(e) may adopt rules and performance standards for industrial furnaces and boilers that burn hazardous wastes. The rules and performance standards:

(i) may be adopted if there are no federal regulations; or

(ii) may be more restrictive than federal regulations."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to waste generated after January 1, 2014.

Approved April 29, 2015

CHAPTER NO. 361

[SB 157]

AN ACT GENERALLY REVISING PROPERTY TAX LAWS; REVISING THE PROPERTY REAPPRAISAL PROCESS AND THE TAXATION OF PROPERTY; PROVIDING FOR A 2-YEAR REAPPRAISAL CYCLE FOR CLASS THREE AGRICULTURAL LAND AND CLASS FOUR RESIDENTIAL AND COMMERCIAL PROPERTY; REVISING PROPERTY TAX ASSISTANCE PROGRAMS, INCLUDING FOR DISABLED VETERANS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-122, 5-2-301, 15-1-101, 15-2-301,15-6-133, 15-6-134, 15-6-138, 15-6-143, 15-7-102, 15-7-103, 15-7-111, 15-7-112, 15-7-131, 15-7-139, 15-7-201, 15-8-111, 15-10-420, 15-15-102, 15-15-103, 15-16-101, 15-16-102, 15-24-3202, 15-24-3203, 15-44-103, AND 77-1-208, MCA; REPEALING SECTIONS 15-6-193, 15-6-211, 15-6-222, 15-24-2101, 15-24-2102, AND 15-24-2103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. It is in the best interest of the state of Montana to mitigate the fluctuations in market value for class three and class four properties that occur during a 6-year reappraisal cycle. The amendment of 15-7-111 in [section 16] mitigates the market's fluctuations in value by implementing a 2-year reappraisal cycle. The intent of the amendments in [sections 6 and 7] is for the statewide taxable value for all residential, commercial, industrial, and agricultural property for the reappraisal cycle beginning January 1, 2015, to remain the same as in the reappraisal cycle

beginning January 1, 2009, and to adjust the tax rates as needed to accomplish this intent.

Section 2. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the ".... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed $50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually ~~using the formula provided in 15-6-134(2)(b)(ii) and (2)(b)(iii), except that the base income level and appropriate dollar amount must be $50 a day~~ *by multiplying the base income of $50 by the ratio of the PCE for the second quarter of the previous year to the PCE for the second quarter of 1995 and rounding the product to the nearest whole dollar amount*.

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the

presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

(a) the council's name, in accordance with subsection (2);

(b) the council's composition;

(c) the appointed members, including names and addresses;

(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) For the purposes of this section, "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the survey of current business by the bureau of economic analysis of the U.S. department of commerce."

Section 3. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning $10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional $5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater

than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ *2-15-122(5)(a)*, or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session."

Section 4. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, *including industrial property defined in subsection (1)(j), and excluding* ~~except~~ property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and

(E) all property described in 15-6-135.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) "Industrial property" for purposes of this section includes all land used for industrial purposes, improvements, and buildings used to house the industrial process and all storage facilities. Under this section, industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

~~(j)~~*(k)* The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

~~(k)~~*(l)* The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

~~(l)~~*(m)* (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in subsection ~~(1)(m)~~ *(1)(o)*, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(n) The term "market value" means the value of property as provided in 15-8-111.

~~(m)~~*(o)* The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

~~(n)~~*(p)* The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

~~(o)~~*(q)* The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(p)~~*(r)* The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

~~(q)~~*(s)* The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

~~(r)~~*(t)* "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

~~(s)~~*(u)* "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

~~(t)~~*(v)* The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

~~(u)~~*(w)* The term "taxable value" means the ~~percentage of~~ market ~~or assessed~~ value *multiplied by the classification tax rate* as provided for in Title 15, chapter 6, part 1.

(x) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local fees and assessments.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification means the state tax appeal board."

Section 5. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the

property assessment division of the department of revenue. If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, the state board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record.

(3) The state tax appeal board must consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the state board does not use the appraisal provided by the taxpayer in conducting the appeal, the state board must provide to the taxpayer the reason for not using the appraisal.

~~(3)~~*(4)* On all hearings at county seats throughout the state, the state board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

~~(4)~~*(5)* In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

~~(5)~~*(6)* The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

~~(6)~~*(7)* Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property."

Section 6. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property — description — taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the *average* productive capacity value of grazing land~~, at the average grade of grazing land~~.

(2) Subject to subsection (3), class three property is taxed at ~~the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a)~~ *2.16% of its productive capacity value*.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land."

Section 7. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property — description — taxable percentage. (1) Class four property includes:

(a) ~~subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section,~~ *subject to subsection (1)(d),* all land, except that specifically included in another class;

(b) ~~subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section,~~ *subject to subsection (1)(d):*

(i) all improvements, including *single-family residences,* trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;

(iii) vacant residential lots; and

(iv) rental multifamily dwelling units.

~~(c) the first $100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of one or more qualified claimants:~~

~~(i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection (2)(b)(i); or~~

~~(ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established in subsection (2)(b)(i);~~

~~(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;~~

~~(e)~~*(c)* ~~subject to 15-6-222(1),~~ all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(d) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated; and

(iv) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

~~(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;~~

~~(ii) rental multifamily dwelling units;~~

~~(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and~~

~~(iv) vacant residential lots; and~~

~~(g) (i) commercial buildings and the parcels of land upon which they are situated; and~~

~~(ii) vacant commercial lots.~~

~~(2) Class four property is taxed as follows:~~

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and ~~15-24-2101,~~ *subsection (3)(b), class four residential* property described in subsections (1)(a)~~, (1)(b), and (1)(e) through (1)(g)~~ *through (1)(c)* of this section is taxed at~~:~~

~~(i) 2.93% of its taxable market value in tax year 2009;~~

~~(ii) 2.82% of its taxable market value in tax year 2010;~~

~~(iii) 2.72% of its taxable market value in tax year 2011;~~

~~(iv) 2.63% of its taxable market value in tax year 2012;~~

~~(v) 2.54% of its taxable market value in tax year 2013; and~~

~~(vi) 2.47%~~ *1.35%* of ~~its taxable~~ market value ~~in tax years after 2013~~.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of $1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(4) Property described in subsection (1)(d)(ii) is taxed at one-half the tax rate established in subsection (3)(c).

~~(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on the income for the preceding calendar year of the owner or owners who occupied the property as their primary residence and determined from the following table:~~

~~Income Single Person~~	~~Income Married Couple Head of Household~~	~~Percentage Multiplier~~
~~$0 - $6,000~~	~~$0 - $8,000~~	~~20%~~
~~$6,001 - $9,200~~	~~$8,001 - $14,000~~	~~50%~~
~~$9,201 - $15,000~~	~~$14,001 - $20,000~~	~~70%~~

~~(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:~~

~~(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and~~

~~(B) rounding the product thus obtained to the nearest whole dollar amount.~~

~~(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.~~

~~(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).~~

~~(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.~~

~~(4) (a) As used in this section, "qualified claimants" means one or more owners who:~~

~~(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;~~

~~(ii) had combined income for the preceding calendar year that does not exceed the threshold provided in subsection (2)(b); and~~

~~(iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.~~

~~(b) For the purposes of subsection (1)(c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31,~~

~~household income means the household's total income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a return.~~

~~(c) The combined income of two or more owners who are qualified claimants:~~

~~(i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b); and~~

~~(ii) determines the amount of tax reduction under subsection (2)(b).~~"

Section 8. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property — description — taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135;

(c) for oil and gas production, all:

(i) machinery;

(ii) fixtures;

(iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, the following definitions apply:

(a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

(3) Except as provided in 15-24-1402 ~~and 15-24-2102~~, class eight property is taxed at:

(a) for the first $6 million of taxable market value in excess of the exemption amount in subsection (4), 1.5%; and

(b) for all taxable market value in excess of $6 million, 3%.

(4) The first $100,000 of market value of class eight property of a person or business entity is exempt from taxation.

(5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold."

Section 9. Section 15-6-143, MCA, is amended to read:

"15-6-143. Class ten property — description — taxable percentage. (1) Class ten property includes all forest lands, as defined in 15-44-102, and property described in subsection (2).

(2) Any parcel of growing timber totaling less than 15 acres qualifies as class ten property if, in a prior year, the parcel totaled 15 acres or more and qualified as forest land but the number of acres was reduced to less than 15 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality and, since that reduction in acres, the parcel has not been further divided.

(3) Class ten property is taxed at~~:~~

~~(a) for tax year 2009, 0.34% of its forest productivity value;~~

~~(b) for tax year 2010, 0.33% of its forest productivity value;~~

~~(c) for tax year 2011, 0.32% of its forest productivity value;~~

~~(d) for tax year 2012, 0.31% of its forest productivity value;~~

~~(e) for tax year 2013, 0.3% of its forest productivity value; and~~

~~(f) for tax years after 2013, 0.29%~~ *0.37%* of its forest productivity value."

Section 10. Definitions. As used in this part, the following definitions apply:

(1) "Annual verification" means the use of a process to:

(a) verify an applicant's income;

(b) approve, renew, or deny benefits for the current year based upon the applicant's eligibility; and

(c) terminate participation based upon death or loss of status as a qualified veteran or veteran's spouse.

(2) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the survey of current business by the bureau of economic analysis of the U.S. department of commerce.

(3) "PCE inflation factor" for a tax year means the PCE for April of the prior tax year before the tax year divided by the PCE for April 2015.

(4) (a) "Primary residence" is, subject to the provisions of subsection (4)(b), a dwelling:

(i) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for which benefits are claimed;

(ii) that is the only residence for which property tax assistance is claimed; and

(iii) determined using the indicators provided for in the rules authorized by [section 11(2)].

(b) A primary residence may include more than one dwelling when the taxpayer resides in one dwelling for less than 7 months during the tax year and another dwelling for less than 7 months of the same tax year, but lives in the dwellings for more than 7 months of the tax year.

(5) "Qualified veteran" means a veteran:

(a) who was killed while on active duty or died as a result of a service-connected disability; or

(b) if living:

(i) was honorably discharged from active service in any branch of the armed services; and

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs.

(6) "Qualifying income" means:

(a) the federal adjusted gross income excluding capital and income losses of an applicant and the applicant's spouse as calculated on the Montana income tax return for the prior year;

(b) for assistance under [section 12], the federal adjusted gross income excluding capital and income losses of an applicant as calculated on the Montana income tax return for the prior tax year; or

(c) for an applicant who is not required to file a Montana income tax return, the income determined using available income information.

(7) "Residential real property" means the land and improvements of a taxpayer's primary residence.

Section 11. Property tax assistance — rulemaking. (1) The requirements of this section must be met for a taxpayer to qualify for property tax assistance under [section 12] or [section 13].

(2) For the property tax assistance programs provided for in [section 12] and [section 13], the residential real property must be owned by the applicant or under contract for deed and be the primary residence as defined in [section 10]. The department shall make rules specifying the indicators used for determining whether a residence is a primary residence for purposes of property tax assistance programs.

(3) An applicant's qualifying income, as defined in [section 10], may not exceed the threshold established in [section 12] or [section 13] or in rules established pursuant to those sections.

(4) (a) A claim for assistance must be submitted on a form prescribed by the department.

(b) The form must contain:

(i) the qualifying income of the applicant and the applicant's spouse;

(ii) an affirmation that the applicant owns and maintains the land and improvements as the primary residence as defined in [section 10];

(iii) the social security number of the applicant and of the applicant's spouse; and

(iv) any other information required by the department that is relevant to the applicant's eligibility.

(5) (a) An application must be filed by April 15 of the year for which assistance is first claimed.

(b) Once assistance is approved, the applicant remains eligible for property tax assistance in subsequent years through the annual verification process defined in [section 10] without the need to reapply.

(c) Applicants and participants in the property tax assistance program provided for in 15-6-134(1)(c) and the disabled or deceased veterans program provided for in 15-6-211 as those sections existed on December 31, 2014, must be included in the annual verification process and are not required to submit a new application.

(d) A taxpayer shall inform the department of any change in eligibility occurring from one year to the next.

(6) The department may verify an applicant's and an applicant's spouse's social security number and benefits with the social security administration and the U.S. department of veterans affairs.

(7) The department must annually verify an applicant's eligibility, including the applicant's and spouse's income, and approve, renew, or deny benefits for the current year based upon the findings.

(8) (a) When providing information for property tax assistance under [section 12] or [section 13], applicants are subject to the false swearing penalties established in 45-7-202.

(b) The department may investigate the information provided in an application and an applicant's continued eligibility.

(c) The department may request applicant verification of the primary residence.

(9) The department may address unusual circumstances of ownership and income that arise in administering taxpayer assistance programs provided for in [section 12] and [section 13].

(10) A temporary stay in a nursing home or similar facility does not change a taxpayer's primary residence for the purposes of taxpayer assistance programs provided for in [section 12] and [section 13].

(11) The department shall award property assistance under the property tax assistance program that provides the greatest benefit to the taxpayer by reviewing applications and eligibility requirements, and notify the applicant of the department's decision.

Section 12. Property tax assistance program — fixed or limited income. (1) There is a property tax assistance program that provides graduated levels of tax assistance for the purpose of assisting citizens with limited or fixed incomes. To be eligible for the program, applicants must meet the requirements of [section 11].

(2) The first $200,000 in appraisal value of residential real property qualifying for the property tax assistance program is taxed at the rates

established by 15-6-134(2) multiplied by a percentage figure based on the applicant's qualifying income determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $8,413	$0 - $11,217	20%
$8,414 - $12,900	$11,218 - $19,630	50%
$12,901 - $21,032	$19,631 - $28,043	70%

(3) The qualifying income levels contained in subsection (2) must be adjusted annually using the PCE inflation factor defined in [section 10], rounded to the nearest whole dollar amount.

Section 13. Disabled veteran program. (1) The residential real property of a qualified veteran or a qualified veteran's spouse is eligible to receive a tax rate reduction as provided in [section 12] and this section.

(2) Property qualifying under subsection (1) and owned by a qualified veteran is taxed at the rate provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $37,404	$0 - $44,885	0%
$37,405 - $41,145	$44,886 - $48,626	20%
$41,146 - $44,885	$48,627 - $52,366	30%
$44,886 - $48,626	$52,367 - $56,107	50%

(3) For a surviving spouse who owns property qualifying under subsection (4), the property is taxed at the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying income determined from the following table:

Income Surviving Spouse	Percentage Multiplier
$0 - $31,170	0%
$31,171 - $34,911	20%
$34,912 - $38,651	30%
$38,652 - $42,392	50%

(4) The property tax exemption under this section remains in effect as long as the qualifying income requirements are met and the property is the primary residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the spouse:

(a) is the owner and occupant of the house;

(b) is unmarried; and

(c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability at the time of death or that the veteran died while on active duty or as a result of a service-connected disability.

(5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by using the PCE inflation factor defined in [section 10], rounded to the nearest whole dollar amount.

Section 14. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, *market value, and taxable value* ~~and appraisal~~ to owners — appeals. (1) (a) Except as provided in 15-7-138, the department shall mail *or provide electronically* to each owner or purchaser under contract for deed a notice ~~of the~~ *that includes the land* classification, *market value, and taxable value* of the land *and improvements* owned or being purchased ~~and the appraisal of the improvements on the land~~. *A notice must be mailed to the owner* only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) ~~except as provided in subsection (1)(b),~~ change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

~~(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.~~

~~(c)~~*(b)* The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance ~~program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211~~ *programs provided for in [section 10 through section 13]*, and the residential property tax credit for the elderly ~~under~~ *provided for in* 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year; and

(iii) a statement that the notice is not a tax bill.

~~(d)~~*(c)* When the department uses an appraisal method that values land and improvements as a unit, including the ~~comparable sales method~~ *sales comparison approach* for residential condominiums or the income ~~method~~ *approach* for commercial property, the notice must contain a combined appraised value of land and improvements.

~~(e)~~*(d)* Any misinformation provided in the information required by subsection ~~(1)(c)~~ *(1)(b)* does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail *or provide electronically* the notice ~~of classification and appraisal on a standardized~~ *in written or electronic* form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail *or provide electronically* the notice ~~of classification and appraisal~~ to a new owner or purchaser under contract for deed unless the department has received the *realty* transfer certificate from

the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed *or provided electronically*. The department shall notify the county tax appeal board of the date of the mailing *or the date when the taxpayer is informed the information is available electronically*.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection ~~in writing to the department on~~ *on written or electronic* forms provided by the department for that purpose.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, ~~and~~ *and* class ten property described in 15-6-143, the objection must be submitted within 30 days ~~after receiving~~ *from the date on* the notice ~~of classification and appraisal from the department~~.

(ii) For class three property described in 15-6-133~~,~~ *and* class four property described in 15-6-134, ~~and class ten property described in 15-6-143,~~ the objection may be made ~~at any time but~~ only once each valuation cycle. *An objection must be made within 30 days from the date on the assessment notice for a reduction in the appraised value to be considered for both years of the 2-year appraisal cycle. Any reduction in value resulting from an objection made more than 30 days from the date of the assessment notice will be applicable only for the second year of the 2-year reappraisal cycle.*

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. Any reduction in value resulting from an objection made more than 30 days after the date of the assessment notice applies only for the subsequent remaining years of the 6-year reappraisal cycle.

(b) For properties valued using *the* sales ~~price~~ *comparison approach* or the ~~capitalization of net income method~~ *income approach* as an indication of value, the form must include a provision that *allows* the objector ~~agrees~~ *to agree* to confidentiality requirements for receipt of comparable sales data from information received from realty transfer certificates under 15-7-308. ~~Within 4 weeks of submitting an objection, if the objection relates to residential and commercial property, the department shall provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with~~ *If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information*:

(i) data from comparable sales used by the department to value the property;

(ii) the methodology and sources of data used by the department in the valuation of the property; and

(iii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) For properties valued using the ~~capitalization of net~~ income ~~method~~ *approach* as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements

for the receipt of all aggregate model output that the department used in the valuation model for the property.

(d) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property~~, independent appraisals of the property,~~ and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. *The county tax appeal board must consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer the reason for not using the appraisal.* The department shall give reasonable notice to the taxpayer of the time and place of the review.

(e) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination *by mail or electronically*. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property *or data available for the property* that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection ~~in writing~~ *on written or electronic forms provided by the department*; and

(b) the department has *provided to the objector by mail or electronically its* stated ~~its~~ reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If ~~any~~ *a* property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board*, pursuant to 15-15-102,* must be filed within 30 days ~~after~~ *from the date on the* notice of the department's determination ~~is mailed to the taxpayer~~. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 15. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal — general and uniform methods. (1) The department shall implement the provisions of 15-7-101, 15-7-102, and this section by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses.

(3) Land classified as agricultural land or forest land must be subclassified according to soil type and productive capacity. In the classification work, use must be made of soil surveys and maps and all other site-specific and pertinent available information, including any information provided by the taxpayer such as:

(a) information detailing actual climate conditions;

(b) information from the United States department of agriculture, including but not limited to:

(i) natural resources conservation service rangeland inventory materials;

(ii) farm service agency materials; and

(iii) Montana agriculture statistics information; and

(c) any other documents or publicly available information that will assist in reaching a value that accurately approximates the productive capacity that the average Montana farmer or rancher could achieve.

(4) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(5) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(6) In ~~any periodic revaluation~~ *the reappraisal* of taxable property ~~completed under the provisions of 15-7-111~~, all property classified in 15-6-134 must be ~~appraised on the taxable portion of~~ *valued as provided in 15-7-111 on* its market value ~~in the same year~~. The department shall publish a rule specifying the ~~year~~ *valuation date* used in the appraisal.

(7) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land or from the house or other improvements in which they are located. ~~The sewage disposal or domestic water supply systems may not be included twice by including either of them in the valuation and assessing them separately.~~"

Section 16. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic ~~revaluation~~ *reappraisal* of certain taxable property. (1) The department shall administer and supervise a program for the ~~revaluation~~ *reappraisal* of all taxable property within class three under 15-6-133, class four under 15-6-134, ~~and~~ *and* class ten under 15-6-143 *as provided in this section*. All other property must be revalued annually. *Beginning January 1, 2015, all property within class three and class four must*

be revalued every 2 years, and all property within class ten must be revalued every 6 years.

(2) The department shall value ~~and phase in the value of~~ newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1) *and shall phase in the value of class ten property*. The department shall adopt rules for determining the assessed valuation ~~and phased-in value~~ of new, remodeled, or reclassified property within the same class *and the phased-in value of class ten property*.

(3) The ~~revaluation~~ *reappraisal* of class three~~,~~ *and class* four~~,~~ ~~and ten~~ property is complete on December 31~~,~~ ~~2008~~ *of every second year of the reappraisal cycle, and the reappraisal of class ten property is complete on December 31 of the sixth year of the reappraisal cycle. The amount of the change in valuation from the base year for class ten property must be phased in each year at the rate of 16.66% of the change in valuation.* ~~The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.~~

(4) During the ~~end of the~~ second ~~and fourth~~ year of each ~~revaluation~~ *reappraisal* cycle, the department shall provide the revenue and transportation interim committee with a ~~sales assessment ratio study of residences to be used to allow the committee to be apprised of the housing market and value trends~~ *report of tax rates for the upcoming reappraisal cycle that will result in taxable value neutrality for each property class*.

(5) The department shall administer and supervise a program for the ~~revaluation~~ *reappraisal* of all taxable property within classes three~~,~~ *and* four~~,~~ ~~and ten~~. ~~A comprehensive written reappraisal plan must be promulgated by the department.~~ *The department shall adopt a reappraisal plan by rule.* The reappraisal plan adopted must provide that all class three~~,~~ *and class* four~~,~~ ~~and ten~~ property in each county is revalued by January 1~~,~~ ~~2015~~ *of the second year of the reappraisal cycle*, effective for January 1~~,~~ ~~2015~~ *of the following year*, and each succeeding ~~6~~ *2* years*, and must provide that all class ten property in each county is revalued by January 1, 2015, effective for January 1, 2015, and each succeeding 6 years. The resulting valuation changes for class ten property must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phasein for class ten property each year is 16.66%.* ~~The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phasein for each year is 16.66%.~~

(6) (a) In completing the appraisal or adjustments under subsection (5), the department shall, as provided in the reappraisal plan, conduct individual property inspections, building permit reviews, sales data verification reviews, and electronic data reviews. The department may adopt new technologies for recognizing changes to property.

(b) The department shall conduct a field inspection of a sufficient number of taxable properties to meet the requirements of subsection (5)."

Section 17. Section 15-7-112, MCA, is amended to read:

"15-7-112. Equalization of valuations. The ~~same~~ method of appraisal and assessment ~~shall~~ *provided for in 15-7-111 must* be used in each county of the state ~~to the end~~ *so* that comparable ~~property~~ *properties* with similar ~~true~~ *full* market values and subject to taxation in Montana ~~shall~~ have substantially equal taxable values ~~at the end of each cyclical revaluation program~~

~~hereinbefore provided~~ *in the tax year and, for class ten property, substantially equal taxable values at the end of each cyclical revaluation cycle*."

Section 18. Section 15-7-131, MCA, is amended to read:

"15-7-131. Policy. It is the policy of the state of Montana to provide for equitable assessment of taxable property in the state and to provide for ~~periodic revaluation~~ *the reappraisal* of taxable property in a manner that is fair to all taxpayers."

Section 19. Section 15-7-139, MCA, is amended to read:

"15-7-139. Requirements for entry on property by property valuation staff employed by department — authority to estimate value of property not entered — rules. (1) Subject to the conditions and restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the department and acting within the course and scope of the employees' official duties.

(2) A person qualified under subsection (1) may enter private land to appraise or audit property for property tax purposes.

(3) (a) No later than November 30 of each year, the department shall publish in a newspaper of general circulation in each county a notice that the department may enter property for the purpose of appraising or auditing property.

(b) The published notice must indicate:

(i) that a landowner may require that the landowner or the landowner's agent be present when the person qualified in subsection (1) enters the land to appraise or audit property;

(ii) that the landowner shall notify the department in writing of the landowner's requirement that the landowner or landowner's agent be present; and

(iii) that the landowner's written notice must be mailed to the department at an address specified and be postmarked not more than 30 days following the date of publication of the notice. The department may grant a reasonable extension of time for returning the written notice.

(4) The written notice described in subsection (3)(b)(ii) must be legible and include:

(a) the landowner's full name;

(b) the mailing address and property address; and

(c) a telephone number at which an appraiser may contact the landowner during normal business hours.

(5) When the department receives a written notice as described in subsection (4), the department shall contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise or audit the property.

(6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land pursuant to subsection (5), the department shall estimate the value of the real and personal property located on the land.

(7) A county tax appeal board and the state tax appeal board may not adjust the estimated value of the real or personal property determined under subsection (6) unless the landowner or the landowner's agent:

(a) gives permission to the department to enter the land to appraise or audit the property; or

(b) provides to the department and files with the county tax appeal board or the state tax appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate appraisers. The appraisal must be conducted in accordance with current uniform standards of professional appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal must be conducted within 1 year of the reappraisal ~~base year~~ *valuation date* provided for in 15-7-103(6) and must establish a separate market value for each improvement and the land.

(8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the person identification sufficient to identify the person and the person's employer and shall present the identification upon request.

(9) The authority granted by this section does not authorize entry into improvements, personal property, or buildings or structures without the permission of the owner or the owner's agent.

(10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to respond to notices from the department."

Section 20. Section 15-7-201, MCA, is amended to read:

"15-7-201. Legislative intent — value of agricultural property. (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by productive capacity. Productive capacity is determined based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula V = I/R where:

(a) V is the per-acre productive capacity value of agricultural land in each subclass;

(b) I is the per-acre net income of agricultural land in each subclass and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

(5) (a) Net income must be determined separately for each subclass.

(b) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.

(i) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly available information if considered appropriate by the advisory committee.

(ii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.

(iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a base water cost of $15 for each acre of irrigated land. Total allowable water costs may not exceed $50 for each acre of irrigated land. Labor and energy costs must be determined as follows:

(A) Labor costs are $5 an acre for pivot sprinkler irrigation systems; $10 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and $15 an acre for hand-moved and flood irrigation systems.

(B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which is the calendar year immediately preceding the ~~year~~ *valuation date* specified by the department in 15-7-103(6). By July 1 of the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in the energy cost base year.

(c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal unit months, defined as the average monthly requirement of pasture forage to support a 1,200-pound cow with a calf or its equivalent.

(d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent ~~7~~ *10* years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.

(6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

(a) compile and review data required by subsections (4) and (5);

(b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

(c) recommend appropriate base periods and averaging methods to the department;

(d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

(e) verify for each class and subclass of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained;

(f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated.

(g) provide methods for adjusting agricultural land productivity values when more site-specific data is available and pertinent; and

(h) recommend to the department definitions for "site-specific" and "pertinent"."

Section 21. Section 15-8-111, MCA, is amended to read:

"15-8-111. ~~Assessment~~ *Appraisal* — market value standard — exceptions. (1) All taxable property must be ~~assessed~~ *appraised* at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses ~~construction~~ *the* cost *approach* as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the ~~capitalization-of-net-income method~~ *income approach* as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (4), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) In valuing class four residential ~~and commercial~~ *and commercial* property described in 15-6-134, the department shall conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the department shall use information available from any source considered reliable. Comparable properties used for valuation must represent similar properties within an acceptable proximity of the property being valued.

(4) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

(c) (i) for condominium property, the department shall establish the value as provided in subsection (5); and

(ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in a manner established by the department by rule; and

(d) as otherwise authorized in Titles 15 and 61.

(5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is available, the department shall use the ~~comparable sales method~~ *sales comparison approach* to appraise residential condominium units. Because the undivided interest in common elements is included in the sales price of the condominium units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the department, the department shall use the ~~capitalization-of-net-income method~~ *income approach* to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the ~~construction-cost method~~ *cost approach*. When using the ~~construction-cost method~~ *cost approach*, the department shall determine the value of the entire condominium project and allocate a percentage of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether the percentage expressed in the declaration conforms to market value.

(6) For purposes of taxation, assessed value is the same as appraised value.

(7) The taxable value for all property is the ~~percentage of~~ market ~~or assessed~~ value ~~established~~ *multiplied by the tax rate* for each class of property.

(8) The ~~assessed~~ *market* value of properties in 15-6-131 through 15-6-134, 15-6-143, ~~and~~ *and* 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at ~~the applicable percentage~~ *100%* of market value ~~minus any portion of market value that is exempt from taxation under 15-6-222~~.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(9) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Section 22. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's *newly taxable* value ~~of newly taxable property~~, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable ~~property~~ *value* in a governmental unit."

Section 23. Section 15-15-102, MCA, is amended to read:

"15-15-102. Application for reduction in valuation. *(1)* The valuation of property may not be reduced by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written application for reduction with the county tax appeal board.

(2) The application for reduction may be obtained at the local appraisal office or from the county tax appeal board. The completed application must be submitted to the county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from the county clerk and recorder.

(3) One application for reduction may be submitted during each 2-year reappraisal cycle. The application must be submitted ~~on or before the first Monday in June or~~ *within* 30 days ~~after receiving either a~~ *from the date on the* notice ~~of classification and appraisal or determination after review~~ *required* under 15-7-102(3) ~~from the department, whichever is later~~. If the department's determination after review is not made in time to allow the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during the next tax year, but the decision by the county tax appeal board is effective for the year in which the request for review was filed with the department. The application must state the post-office address of the applicant, specifically describe the property involved, and state the facts upon which it is claimed the reduction should be made."

Section 24. Section 15-15-103, MCA, is amended to read:

"15-15-103. Examination of applicant — failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county tax appeal board hearing. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing. On written request by

the person or the person's agent and on the written concurrence of the department, the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

(i) those listed in 15-2-302; and

(ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current session.

(b) The county tax appeal board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the state tax appeal board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property.

(3) The county tax appeal board must consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the county tax appeal board does not use the appraisal provided by the taxpayer in conducting the appeal, the county board must provide to the taxpayer the reason for not using the appraisal."

Section 25. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice — manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located;

(v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; and

(vi) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance ~~program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211~~ *programs under [section 10 through section 13]*, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341.

(b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of $5 or less, an additional tax is not owed and a new tax bill does not need to be prepared."

Section 26. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment — penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the

delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the ~~low-income~~ property tax assistance ~~provisions of 15-6-134(1)(c)~~ *program provided for in [section 12]* are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of $5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 27. Section 15-24-3202, MCA, is amended to read:

"15-24-3202. Gray water system for newly constructed residence — tax abatement. (1) A residential dwelling that is under construction or that is newly constructed with a residential gray water system is taxed at 91% of its ~~taxable~~ market value during the course of the construction and for 10 years after completion of construction as provided in this section.

(2) To receive a tax abatement under this section, a taxpayer shall apply, on a form provided by the department, to the department on or before April 15 of the year for which the first abatement is claimed for property under construction and for the first year of the completion of construction but not later than 1 year after the completion of the construction. The claimant shall provide a certification from the local board of health pursuant to 50-2-116 that the residential dwelling is under construction or was constructed with a gray water system that meets the requirements of this section. The department may require other information that it considers necessary to determine the eligibility of the residential dwelling for a property tax abatement.

(3) An abatement granted under this section remains in effect through the 10th year following the year construction was completed."

Section 28. Section 15-24-3203, MCA, is amended to read:

"15-24-3203. Common gray water and potable water systems for newly constructed multiple dwelling projects — tax abatement. (1) A multiple dwelling project that is under construction or that is constructed with a

common gray water and potable water system is taxed at 91% of the ~~taxable~~ market value of the project or ~~taxable~~ market value of each residential condominium unit during the course of the construction and for 10 years after completion of construction as provided in this section.

(2) To receive a tax abatement, a taxpayer shall apply, on a form provided by the department, to the department on or before April 15 of the year for which the first abatement is claimed for property under construction and for the first year of the completion of construction but not later than 1 year after the completion of the construction of the residential units or, if construction is to occur over a multiyear period, after the completion of the first residential unit. The claimant shall provide a certification from the local board of health pursuant to 50-2-116 that the residential dwelling is under construction or was constructed with a common gray water and potable water system that meets the requirements of this section. The department may require other information that it considers necessary to determine the eligibility of the residential dwelling for a property tax abatement.

(3) An abatement granted under this section remains in effect through the 10th year following the year construction was completed.

(4) Only property with a common gray water and potable water system is eligible for the property tax abatement provided in this section."

Section 29. Section 15-44-103, MCA, is amended to read:

"15-44-103. Legislative intent — value of forest lands — valuation zones. (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land productivity valuation for each forest valuation zone, the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula V = I/R, where:

(a) V is the per-acre forest productivity value of the forest land;

(b) I is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula I = (M x SV) + AI - C, where:

(i) I is the per-acre net income;

(ii) M is the mean annual net wood production;

(iii) SV is the stumpage value;

(iv) AI is the per-acre agriculture-related income; and

(v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

(c) R is the capitalization rate determined by the department as provided in subsection (6).

(5) Net income must:

(a) be calculated for each year of a base period, which is the most recent ~~5-year~~ *10-year* period for which data is available~~;~~ *prior to the date the revaluation cycle ends. Data referred to in subsection (4)(b) must be averaged.*

(b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone and on the associated production cost data for the base period from sources considered appropriate by the department; and

(c) include agriculture-related net income for the same time period as the period used to determine average stumpage values.

(6) The capitalization rate must be calculated for each year of the base period and is the average capitalization rate determined by the department after consultation with the forest lands taxation advisory committee, plus the effective tax rate. The capitalization rate must be adopted by rule. ~~However, the capitalization rate for each year of the base period for tax years 2009 through 2014 may not be less than 8%.~~ *However, the capitalization rate for each year of the base period for tax years 2015 through 2020 may not be less than 8%.*

(7) The effective tax rate must be calculated for each year of the base period by dividing the total estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

(8) For the purposes of this section, if forest service sales are used in the determination of stumpage values, the department shall take into account purchaser road credits.

(9) In determining the forest productivity value of forest lands and in computing the forest land valuation, the department shall use information and data provided by the university of Montana-Missoula.

(10) (a) There is a forest lands taxation advisory committee consisting of:

(i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the minority leader of the house of representatives; and

(ii) three members appointed by the governor, one who is an industrial forest landowner, one who is a nonindustrial forest landowner, and one who is a county commissioner.

(b) The terms of the members expire on June 30 of the first year of each reappraisal cycle.

(c) The advisory committee shall:

(i) review data required by subsections (2) through (6), (8), and (9), including data on productivity value, stumpage value, wood production, capitalization rate, net income, and agriculture-related income;

(ii) recommend to the department any adjustments to data if required by changes in government forest land programs, market conditions, or prevailing forest lands practices;

(iii) recommend appropriate base periods and averaging methods to the department;

(iv) verify for each forest valuation zone and forest land classification and subclassification under subsection (3) that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained; and

(v) recommend forest land valuation techniques to the department."

Section 30. Section 77-1-208, MCA, is amended to read:

"77-1-208. Cabin site licenses and leases — method of establishing value. (1) The board shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on one of the following methods:

(a) appraisal of the cabin site value as determined by the department of revenue. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value may be increased or decreased as a result of the statewide ~~periodic revaluation~~ *reappraisal* of property pursuant to 15-7-111 ~~without any adjustments as a result of phasing in values~~. An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, chapter 15.

(b) establishing full rental market value through the use of an open competitive bidding process as provided in 77-1-235.

(2) A current licensee or lessee may complete or renew the licensee's or lessee's current lease based on valuation methods provided in subsection (1)(a), or at the end of the lease or license contract, the licensee or lessee may choose to proceed with the valuation option provided in subsection (1)(b).

(3) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(4) (a) Subject to subsection (4)(b), the board shall follow the procedures set forth in 77-6-302, 77-6-303, and 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board.

(b) (i) A subsequent licensee or lessee may not take occupancy unless the license or lease contract and the sale of improvements have been finalized. If a winning bidder has been identified and the transaction for the sale of the improvements is in process, the current lessee shall pay a prorated lease fee based on the current lease until the date that the sale of the improvements is finalized.

(ii) The valuation of improvements must be applicable to residential property inclusive of all improvements.

(iii) A licensee or lessee may assign or rent any improvements.

(iv) Within 3 years of canceling, terminating, or abandoning a cabin site lease, the owner of the improvements shall sell the improvements, remove the improvements, or transfer ownership of the improvements to the state. If ownership is transferred to the state, proceeds from the sale of the improvements must be paid to the owner who transferred the improvements.

The board shall set the conditions of the sale of transferred improvements in order to sell the improvements in an expedient manner."

Section 31. Repealer. The following sections of the Montana Code Annotated are repealed:

15-6-193. Extended property tax assistance — phasein.

15-6-211. Certain disabled or deceased veterans' residences exempt.

15-6-222. Residential and commercial improvements — percentage of value exempt.

15-24-2101. Purpose.

15-24-2102. Reduction in assessment of taxable value of commercial and industrial property — application — approval.

15-24-2103. Exclusions from other property tax reductions — recapture.

Section 32. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 7, part 1, and the provisions of Title 15, chapter 7, part 1, apply to [section 1].

(2) [Sections 10 through 13] are intended to be codified as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [sections 10 through 13].

Section 33. Effective date. [This act] is effective on passage and approval.

Section 34. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014, and to the reappraisal cycle beginning January 1, 2015.

Approved April 29, 2015

CHAPTER NO. 362

[SB 193]

AN ACT GENERALLY REVISING LIQUOR LAWS; AMENDING LAWS RELATED TO AGENCY LIQUOR STORE COMMISSIONS BY SPECIFYING COMMISSION RATES BASED ON SALES; DESIGNATING THE STATE MARKUP RELATING TO RETAIL SELLING PRICE; AMENDING SECTIONS 16-1-404 AND 16-2-101, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor — amount — distribution of proceeds. (1) Except as provided in subsection (4), the department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The license tax must be charged and collected on all liquor produced in or brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup ~~as designated by the department~~ *of 40.5% for all liquor other than sacramental wine, for which the markup must be 20%, and fortified wine containing more than 16% but not more than 24% alcohol by volume, for which the markup must be 51%.* The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. The department, in accordance with the provisions of 17-2-124, shall allocate the revenue as follows:

(a) Thirty-four and one-half percent is allocated to the state general fund.

(b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(3) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206.

(4) The following are exempt from the tax and markup imposed by this section:

(a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and

(b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312."

Section 2. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of agency liquor stores — agency franchise agreement — kinds and prices of liquor. (1) The department shall enter into agency franchise agreements to operate agency liquor stores as the department finds feasible for the wholesale and retail sale of liquor.

(2) (a) The department may from time to time fix the posted prices at which the various classes, varieties, and brands of liquor may be sold, and the posted prices must be the same at all agency liquor stores.

(b) (i) The department shall supply from the state liquor warehouse to agency liquor stores the various classes, varieties, and brands of liquor for resale at the state posted price to persons who hold liquor licenses and to all other persons at the retail price established by the agent.

(ii) (A) According to the ordering and delivery schedule set by the department, an agency liquor store may place a liquor order with the department at its state liquor warehouse in the manner to be established by the department.

(B) The agency liquor store's purchase price is the department's posted price less the agency liquor store's commission rate ~~and less the agency liquor store's weighted average discount ratio. For purposes of this subsection (2)(b)(ii)(B), for agency liquor stores or employee-operated state liquor stores that were operating on June 30, 1994, the weighted average discount ratio is the ratio between an agency liquor store's or the employee-operated state liquor store's full case discount sales divided by the agency liquor store's or employee-operated state liquor store's gross sales, based on fiscal year 1994 reported sales, times the state discount rate for case lot sales, as provided in 16-2-201, divided by the state discount rate for full case lot sales in effect on June 30, 1994. For all other stores that are placed in service after June 30, 1994, the weighted average discount ratio is the average ratio in fiscal year 1994 for similar sized stores for 1 year of operation. The weighted average discount ratio must be computed on the store's first 12 months of operation~~. *The commission rates constitute the only compensation the department provides to agency liquor stores and reflect that agency liquor stores sell at retail and wholesale and must provide the discount in 16-2-201.*

(C) All liquor purchased from the state liquor warehouse by an agency liquor store must be paid for within 60 days of the date on which the department invoices the liquor to the agency liquor store.

(c) An agency liquor store may sell table wine at retail for off-premises consumption.

(3) Agency liquor stores may not be located in or adjacent to grocery stores in communities with populations over 3,000.

(4) *(a) Beginning February 1, 2016, each agency liquor store's commission rate is equal to the agency liquor store's combined commission rate on December 31, 2015, plus 1/3 of the difference between the agency liquor store's commission rate as determined in subsection (4)(b) and the agency liquor store's combined commission rate on December 31, 2015. Beginning February 1, 2017, each agency liquor store's commission rate is equal to the agency liquor store's combined commission rate on December 31, 2015, plus 2/3 of the difference between the agency liquor store's commission rate as determined in subsection (4)(b) and the agency liquor store's combined commission rate on December 31, 2015. Beginning February 1, 2018, each agency liquor store's commission rate is determined as in subsection (4)(b).*

~~(a)~~*(b)* Agency liquor stores must receive ~~commissions payable~~ *an annual commission rate based on the total posted price of liquor purchased in the previous calendar year,* as follows:

(i) ~~(A) a 10% commission for agencies in communities with less than 3,000 in population, unless adjusted pursuant to subsection (6); or~~ *16% commission for stores that purchased not more than $250,000;*

(ii) 15.5% commission for stores that purchased more than $250,000 but not more than $500,000;

(iii) 15% commission for stores that purchased more than $500,000 but not more than $720,000;

(iv) 14.5% commission for stores that purchased more than $720,000 but not more than $950,000;

(v) 14% commission for stores that purchased more than $950,000 but not more than $1.525 million;

(vi) 13.5% commission for stores that purchased more than $1.525 million but not more than $1.85 million;

(vii) 13% commission for stores that purchased more than $1.85 million but not more than $2.25 million;

(viii) 12.75% commission for stores that purchased more than $2.25 million but not more than $3.25 million;

(ix) 12.5% commission for stores that purchased more than $3.25 million but not more than $7 million; or

(x) 12.15% commission for stores that purchased more than $7 million.

~~(B) a commission established by competitive bidding unless adjusted pursuant to subsection (6) for agencies in communities with 3,000 or more in population; plus~~

~~(ii) for agency liquor stores operating under a renewed franchise agreement or that have been operated for at least 3 years under an original franchise agreement, a percentage based upon the total annual dollar volume of sales in the previous fiscal year, as follows:~~

~~(A) for agency liquor stores with a volume of sales of $560,000 or more, 0.875% beginning July 1, 2009;~~

~~(B) for agency liquor stores with a volume of sales of less than $560,000, 1.5% beginning July 1, 2009; or~~

~~(C) for a city with more than one agency liquor store, in lieu of the addition to a commission increase provided in subsection (4)(a)(ii)(A) or (4)(a)(ii)(B), for each agency liquor store in the city, an addition to its commission rate equal to the increase granted the agency liquor store with the lowest commission rate.~~

~~(b) The~~*(c) For commissions determined under subsection (4)(b), the* department shall by ~~April 1~~ *February 1* of each year*:* ~~determine the dollar values of sales volumes in subsections (4)(a)(ii)(A) and (4)(a)(ii)(B) by using an inflation factor based on the change in the cost of liquor to agency liquor stores during the prior calendar year. The department shall establish the method of determining the inflation factor by rule using a liquor-specific base such as the annual change in the cost per case of the 25 items with the highest sales volume for a calendar year or another appropriate method of measuring the change in liquor prices.~~

(i) calculate purchases based on all liquor invoiced to the agency liquor store during the previous calendar year;

(ii) notify agency liquor stores of their commission rate to be applied for the period beginning February 1 and ending January 31; and

(iii) adjust the dollar values for purchase amounts under subsection (4)(b) based on the consumer price index for the prior calendar year and notify all agency liquor stores of the adjustment.

(d) New stores must receive a commission established by competitive bidding, which is guaranteed for 3 calendar years, after which time the agency liquor store's commission is subject to subsection (4)(b).

(5) An agency franchise agreement must:

(a) be effective for a 10-year period ~~and must be renewed at the existing commission rate~~*, renewable* for additional 10-year periods*,* if the requirements of the agency franchise agreement have been satisfactorily performed;

(b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must:

(i) declare the department as an additional insured; and

(ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement.

(c) provide that upon termination by the department for cause or upon mutual termination, the agent is liable for any outstanding liquor purchase invoices. If payment is not made within the appropriate time, the department may immediately repossess all liquor inventory, wherever located.

(d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement.

~~(6) (a) The commission percentage that the department pays the agent under subsection (4)(a) may be reviewed every 3 years at the request of either party. If the agent concurs, the department may adjust the commission percentage to be paid during the remaining term of the agency franchise agreement or until the next time the commission percentage is reviewed, if that is sooner than the term of the agency franchise agreement, to a commission percentage that is equal to the average commission percentage being paid agents with similar sales volumes if:~~

~~(i) the agent's commission percentage is less than the average; and~~

~~(ii) all the requirements of the agency franchise agreement have been satisfactorily performed.~~

~~(b) The adjusted commission percentage determined under subsection (6)(a) may be greater than the average commission paid agents with similar sales volume:~~

~~(i) if the agent demonstrates that:~~

~~(A) the agent has experienced cost increases that are beyond the agent's control, including but not limited to increases in the federally established minimum wage or escalation in prevailing rent; and~~

~~(B) the average commission percentage is insufficient to yield net income commensurate with net income experienced before the cost increases occurred; and~~

~~(ii) if the department demonstrates that it is unable to indicate adjustments in the requirements specified in the agent's franchise agreement that will eliminate the impact of cost increases.~~

~~(7)~~*(6)* The liability insurance requirement may be reviewed every 3 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of liability insurance coverage may not be less than the minimum requirements of the department of administration.

~~(8)~~*(7)* (a) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement because the agent:

(i) charges retail prices that are less than the department's posted price for liquor, sells liquor to persons who hold liquor licenses at less than the posted price, or sells liquor at case discounts greater than the discount provided for in 16-2-201 to persons who hold liquor licenses;

(ii) fails to maintain sufficient liability insurance;

(iii) has not maintained a quantity and variety of product available for sale commensurate with demand, delivery cycle, repayment schedule, mixed case shipments from the department, and the ability to purchase special orders;

(iv) at an agency liquor store located 35 miles or more from the nearest agency liquor store, has operated the agency liquor store in a manner that makes the premises unsanitary or inaccessible for the purpose of making purchases of liquor; or

(v) fails to comply with the express terms of the agency franchise agreement.

(b) The department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the termination and request a hearing within 30 days of the date of notice. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act.

(c) In the case of failure to make timely payments to the department for liquor purchased, the department may terminate the agency franchise agreement and immediately repossess any liquor purchased and in the possession of the agent. If an agency franchise agreement is terminated, the agent may contest the termination and request a hearing within 30 days of the department's repossession of the liquor. The agency liquor store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act.

~~(9)~~*(8)* An agency franchise agreement may be terminated upon mutual agreement by the agent and the department.

~~(10)~~*(9)* An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an assignment request.

~~(11)~~*(10)* A person or entity may not hold an ownership interest in more than one agency liquor store.

~~(12)~~*(11)* The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%.

(12) For the purposes of this section, the term "combined commission rate" means the agency liquor store's weighted average discount rate plus the discount rate provided for sales volume plus the agency liquor store's commission rate that existed on December 31, 2015."

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective November 1, 2015.

(2) [Section 2] is effective February 1, 2016.

Approved April 29, 2015

CHAPTER NO. 363

[SB 195]

AN ACT APPLYING THE EMPLOYMENT PROTECTIONS FOR MEMBERS OF MONTANA'S NATIONAL GUARD TO MEMBERS OF THE NATIONAL GUARD IN ANOTHER STATE WHO ARE EMPLOYED IN MONTANA;

AMENDING SECTIONS 10-1-1002, 10-1-1003, 10-1-1005, 10-1-1007, AND 10-1-1009, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-1002, MCA, is amended to read:

"10-1-1002. Purpose — legislative intent. The purpose of this part is to recognize the importance of the service performed by Montana national guard members *and the national guard members of other states who are employed in Montana* and to protect the employment rights of national guard members who may be called to state active duty when there is a state emergency or disaster. The legislature also supports the efforts and sacrifices of the employers of Montana national guard members *and the national guard members of other states who are employed in Montana* and intends that this part will provide a means for national guard members and employers to work cooperatively to resolve any workplace issues."

Section 2. Section 10-1-1003, MCA, is amended to read:

"10-1-1003. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) "Department" means the department of labor and industry established in 2-15-1701.

(2) "Elected official" means an official duly elected or appointed to any state or local judicial, legislative, or executive elective office of the state, a district, or a political subdivision of the state, including a school district or any other local district.

(3) (a) "Employer" means any public or private person or entity providing employment in Montana.

(b) The term does not include the United States.

(4) "Federally funded military duty" means duty, including training, performed pursuant to orders issued under Title 10 or 32 of the United States Code and the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the duty.

(5) "Member" means a member of the state's organized militia provided for in 10-1-103 *or a member of the national guard of another state*.

(6) "Military service" includes both federally funded military duty and state active duty.

(7) (a) "State active duty" means duty performed by a member when a disaster or an emergency has been declared by the proper authority of the state *of Montana* pursuant to Article VI, section 13, of the Montana constitution *or pursuant to the authority of the governor of any other state* to include the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the active duty.

(b) The term does not include federally funded military duty."

Section 3. Section 10-1-1005, MCA, is amended to read:

"10-1-1005. Prohibition against employment discrimination. An employer may not deny employment, reemployment, reinstatement, retention, promotion, or any benefit of employment or obstruct, injure, discriminate against, or threaten negative consequences against a person with regard to employment because of the person's membership, application for membership, or potential application for membership in the ~~state organized militia~~ *national*

guard of Montana or any other state or because the person may exercise or has exercised a right or may claim or has claimed a benefit under this part."

Section 4. Section 10-1-1007, MCA, is amended to read:

"10-1-1007. Right to return to employment without loss of benefits — exceptions — definition. (1) Subject to the provisions of this section, after a leave of absence for state active duty, a member is entitled to return to employment with the same seniority, status, pay, health insurance, pension, and other benefits as the member would have accrued if the member had not been absent for the state active duty.

(2) (a) If a member was a probationary employee when ordered to state active duty, the employer may require the member to resume the member's probationary period from the date when the member's leave of absence for state active duty began.

(b) An employer may decide whether or not to authorize the member to accrue sick leave, vacation leave, military leave, or other leave benefits during the member's leave of absence for state active duty. However, the member may not be provided with lesser leave accrual benefits than are provided to all other employees of the employer in a similar but nonmilitary leave status.

(c) (i) An employer's health plan must provide that:

(A) a member may elect to not remain covered under the employer's health plan while the member is on state active duty but that when the member returns, the member may resume coverage under the plan without the plan considering the employee to have incurred a break in service; and

(B) a member may elect to remain on the employer's health plan while the member is on state active duty without being required to pay more than the regular employee share of the premium, except as provided in subsection (2)(c)(ii).

(ii) If a member's state active duty qualifies the member for coverage under the state of Montana's health insurance plan as an employee of the department of military affairs, the employer's health plan may require the member to pay up to 102% of the full premium for continued coverage.

(iii) A health insurance plan covering an employee who is a member serving on state active duty is not required to cover any illness or injury caused or aggravated by state active duty.

(iv) If the member is a state employee prior to being ordered to state active duty, the member does not become qualified as an employee of the department of military affairs for the purposes of health plan coverage until the member's state active duty qualifies the member to be considered an employee of the department of military affairs pursuant to 2-18-701.

(d) An employer's pension plan must provide that when a member returns to employment from state active duty:

(i) the member's period of state active duty may constitute service with the employer or employers maintaining the plan for the purposes of determining the nonforfeitability of the member's accrued benefits and for the purposes of determining the accrual of benefits under the plan; and

(ii) if the member elects to receive credit and makes the contributions required to accrue the pension benefits that the member would have accrued if the member had not been absent for the state active duty, then the employer shall pay the amount of the employer contribution that would have been made for the member if the member had not been absent.

(e) An employer is not obligated to allow the member to return to employment after the member's absence for state active duty if:

(i) the member is no longer qualified to perform the duties of the position, subject to the provisions of 49-2-303 prohibiting employment discrimination because of a physical or mental disability;

(ii) the member's position was temporary and the temporary employment period has expired;

(iii) the member's request to return to employment was not done in a timely manner;

(iv) the employer's circumstances have changed so significantly that the member's continued employment with the employer cannot reasonably be expected; ~~or~~

(v) the member's return to employment would cause the employer an undue hardship*;*

(vi) the member did not inform the employer at the time of hire that the member was a member of the state's organized militia or the national guard of another state; or

(vii) the member enlisted in the state's organized militia or another state's national guard during the course of employment with the employer and did not inform the employer of the enlistment.

(3) (a) For the purposes of this section and except as provided in subsection (3)(b), "timely manner" means:

(i) for state active duty of up to 30 days, the member returned to employment the next regular work shift following safe travel time plus 8 hours;

(ii) for state active duty of 30 days to 180 days, the member returned to employment within 14 days of termination of state active duty; and

(iii) for state active duty of more than 180 days, the member returned to employment within 90 days of termination of the state active duty.

(b) If there are extenuating circumstances that preclude the member from returning to employment within the time period provided in subsection (3)(a) through no fault of the member, then for the purposes of this section "timely manner" means within the time period specified by the adjutant general provided for in 2-15-1202."

Section 5. Section 10-1-1009, MCA, is amended to read:

"10-1-1009. Paid military leave for public employees. (1) An employee of the state or of any political subdivision, as defined in 2-9-101, who is a member of the ~~organized militia of this state~~ *national guard of Montana or any other state* or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of at least 6 months must be given leave of absence with pay accruing at a rate of 120 hours in a calendar year, or academic year if applicable, for performing military service.

(2) Military leave may not be charged against the employee's annual vacation time.

(3) Unused military leave must be carried over to the next calendar year, or academic year if applicable, but may not exceed a total of 240 hours in any calendar or academic year."

Section 6. Coordination instruction. If both House Bill No. 68 and [this act] are passed and approved and if both amend 10-1-1003, then the sections amending 10-1-1003 are void and 10-1-1003 must be amended as follows:

"10-1-1003. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) "Department" means the department of labor and industry established in 2-15-1701.

(2) "Elected official" means an official duly elected or appointed to any state or local judicial, legislative, or executive elective office of the state, a district, or a political subdivision of the state, including a school district or any other local district.

(3) (a) "Employer" means any public or private person or entity providing employment in Montana.

(b) The term does not include the United States.

(4) "Federally funded military duty" means duty, including training, performed pursuant to orders issued under Title 10 or *Title* 32 of the United States Code and the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the duty.

(5) "Member" means a member of the state's organized militia provided for in 10-1-103 *or a member of the national guard of another state*.

(6) "Military service" includes both federally funded military duty and state ~~active~~ *military* duty.

(7) (a) "State ~~active~~ *military* duty" means duty performed by a member ~~when a disaster or an emergency has been declared by the proper authority of the state~~ pursuant to Article VI, section 13, of the Montana constitution*, the authority of the governor of any other state, or 10-1-505* ~~to include~~ *and* the time period, if any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while performing the ~~active~~ *state military* duty.

(b) The term does not include federally funded military duty."

Section 7. Effective date. [This act] is effective on passage and approval.

Approved April 29, 2015

CHAPTER NO. 364

[SB 258]

AN ACT REVISING THE DEFINITION OF "EMPLOYER" WITH REGARD TO CERTAIN RELIGIOUS ORGANIZATIONS IN WORKERS' COMPENSATION INSURANCE LAWS; AND AMENDING SECTIONS 39-71-117 AND 39-71-118, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-117, MCA, is amended to read:

"39-71-117. Employer defined. (1) "Employer" means:

(a) the state and each county, city and county, city school district, and irrigation district; all other districts established by law; all public corporations and quasi-public corporations and public agencies; each person; each prime contractor; each firm, voluntary association, limited liability company, limited liability partnership, and private corporation, including any public service corporation and including an independent contractor who has a person in service under an appointment or contract of hire, expressed or implied, oral or written; and the legal representative of any deceased employer or the receiver or trustee of the deceased employer;

(b) any association, corporation, limited liability company, limited liability partnership, or organization that seeks permission and meets the requirements set by the department by rule for a group of individual employers to operate as self-insured under plan No. 1 of this chapter;

(c) any nonprofit association, limited liability company, limited liability partnership, or corporation or other entity funded in whole or in part by federal, state, or local government funds that places community service participants, as described in 39-71-118(1)(e), with nonprofit organizations or associations or federal, state, or local government entities; and

(d) *subject to subsection (5),* a religious corporation, religious organization, or religious trust receiving remuneration from nonmembers for ~~agricultural production,~~*:*

(i) manufacturing~~,~~ or ~~a~~ construction ~~project~~ *activities* conducted by its members on or off the property ~~of~~ *owned or leased by* the religious corporation, religious organization, or religious trust*; or*

(ii) agricultural labor and services performed off the property owned or leased by the religious corporation, religious organization, or religious trust.

(2) A temporary service contractor is the employer of a temporary worker for premium and loss experience purposes.

(3) Except as provided in chapter 8 of this title, an employer defined in subsection (1) who uses the services of a worker furnished by another person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, is presumed to be the employer for workers' compensation premium and loss experience purposes for work performed by the worker. The presumption may be rebutted by substantial credible evidence of the following:

(a) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, furnishing the services of a worker to another retains control over all aspects of the work performed by the worker, both at the inception of employment and during all phases of the work; and

(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, furnishing the services of a worker to another has obtained workers' compensation insurance for the worker in Montana both at the inception of employment and during all phases of the work performed.

(4) An interstate or intrastate common or contract motor carrier that maintains a place of business in this state and uses an employee or worker in this state is considered the employer of that employee, is liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

(a) the worker in this state is certified as an independent contractor as provided in 39-71-417; or

(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation furnishing employees or workers in this state to a motor carrier has obtained Montana workers' compensation insurance on the employees or workers in Montana both at the inception of employment and during all phases of the work performed.

(5) The definition of "employer" in subsection (1)(d) is limited to implementing the administrative purposes of this chapter and may not be

interpreted or construed to create an employment relationship in any other context."

Section 2. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation

purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) *subject to subsection (11),* a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b), a volunteer emergency medical technician as defined in subsection (10), or a volunteer firefighter as defined in 7-33-4510. An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee under the provisions of this chapter a volunteer emergency medical technician.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than $900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than $200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business

partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) With the approval of the insurer, an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit.

(b) In the event of an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency medical technician, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency medical technician who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as

provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

(f) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

(11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context."

Approved April 29, 2015

CHAPTER NO. 365

[SB 259]

AN ACT REVISING THE FUNDING FOR CERTAIN ADMINISTRATIVE FUNCTIONS OF THE DEPARTMENT OF LABOR AND INDUSTRY RELATED TO WORKERS' COMPENSATION AND OCCUPATIONAL SAFETY AND HEALTH LAWS; INCREASING A PERCENTAGE THAT MAY BE ASSESSED AGAINST WORKERS' COMPENSATION INSURERS FOR ADMINISTRATION OF THE WORKERS' COMPENSATION ACT; CREATING A NEW ASSESSMENT FOR ADMINISTERING OCCUPATIONAL SAFETY AND HEALTH LAWS; PROVIDING FOR A PROCEDURAL TRANSITION; AMENDING SECTIONS 39-71-201, 39-71-435, 39-71-1050, 50-71-113, 50-71-119, 50-72-106, AND 50-73-107, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-201, MCA, is amended to read:

"39-71-201. ~~Administration~~ *Workers' compensation administration* fund. (1) A workers' compensation administration fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers' Compensation Act ~~and the statutory occupational safety and health acts that the department is required to administer~~, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. The department shall collect and deposit in the state treasury to the credit of the workers' compensation administration fund:

(a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, 39-71-307, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337;

~~(b) all penalties assessed under 50-71-119;~~ and

~~(c)~~*(b)* all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section.

(2) For the purposes of this section, paid losses include the following benefits paid during the preceding calendar year for injuries covered by the Workers'

Compensation Act without regard to the application of any deductible whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

(b) except for medical benefits in excess of $200,000 for each occurrence that are exempt from assessment, total medical benefits paid for medical treatment rendered to an injured worker, including hospital treatment and prescription drugs.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses pursuant to subsection (2).

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share determined by the paid losses in the preceding calendar year of all costs of administering and regulating the Workers' Compensation Act ~~and the statutory occupational safety acts that the department is required to administer~~, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition, compensation plan No. 3, the state fund, shall pay a proportionate share of these costs based upon paid losses for claims arising before July 1, 1990.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to ~~3%~~ *4%* of the paid losses paid in the preceding calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to ~~3%~~ *4%* of the paid losses paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. ~~Payment of the~~ *The* assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of $500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(6) (a) Compensation plan No. 3, the state fund, shall pay an assessment to fund administrative and regulatory costs attributable to claims arising before July 1, 1990. The assessment may be up to ~~3%~~ *4%* of the paid losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory costs that is attributable to claims arising before July 1, 1990.

(b) ~~Payment of the~~ *The* assessment must be paid in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(c) If the state fund fails to timely pay to the department the assessment under this section, the department may impose on the state fund an administrative fine of $500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed upon insured employers.

(b) The amount to be funded by the premium surcharge may be up to ~~3%~~ *4%* of the paid losses paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to ~~3%~~ *4%* of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this section, the department may impose on the insurer an administrative fine of $500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by the insurer must be

applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

(8) By July 1, an insurer under compensation plan No. 2 that ~~pays~~ *paid* benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to ~~3%~~ *4%* of paid losses paid in the preceding calendar year. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

(9) An employer that makes a first-time application for permission to enroll under compensation plan No. 1 shall pay an assessment of $500 within 15 days of being granted permission by the department to enroll under compensation plan No. 1.

(10) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(11) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of this chapter, including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state.

(12) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(13) The department may assess and collect the workers' compensation regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the workers' compensation administration fund."

Section 2. Section 39-71-435, MCA, is amended to read:

"39-71-435. Workers' compensation and employers' liability insurance — optional deductibles. (1) An insurer issuing a workers' compensation or an employer's liability insurance policy may offer to the policyholder, as part of the policy or by endorsement, optional deductibles for benefits payable under the policy consistent with the standards contained in subsection (3).

(2) The advisory organization designated under 33-16-1023 may develop and file a deductible plan or plans on behalf of its members consistent with the standards contained in subsection (3).

(3) The commissioner of insurance shall approve a deductible plan that is in accordance with the following standards:

(a) Claimants' rights are properly protected and claimants' benefits are paid without regard to the deductible.

(b) Premium reductions reflect the type and level of the deductible, consistent with accepted actuarial standards.

(c) Premium reductions for deductibles are determined before application of any experience modification, premium surcharge, or premium discount.

(d) Recognition is given to policyholder characteristics, including but not limited to size, financial capabilities, nature of activities, and number of employees.

(e) The policyholder is liable to the insurer for the deductible amount in regard to benefits paid for compensable claims.

(f) The insurer pays all of the deductible amount applicable to a compensable claim to the person or provider entitled to benefits and then seeks reimbursement from the policyholder for the applicable deductible amount.

(g) Failure by the policyholder to reimburse deductible amounts to the insurer is treated under the policy as nonpayment of premium.

(h) Losses subject to the deductible must be reported and recorded as losses for purposes of calculating rates for a policyholder on the same basis as losses under policies providing first dollar coverage.

(4) The state compensation insurance fund, plan No. 3, may adopt the plan filed by the designated advisory organization or adopt an optional deductible plan that meets the requirements of this section.

(5) For purposes of 39-71-201*,* ~~and~~ 39-71-915, *and [section 8],* liability for assessments must be ascertained without regard to application of any deductible, whether the employer or the insurer pays the losses. For all other taxes and assessments based on premium, the amount of premium or assessment must be determined after application of the deductible."

Section 3. Section 39-71-1050, MCA, is amended to read:

"39-71-1050. Assessment for stay-at-work/return-to-work assistance fund — definition. (1) (a) The assistance fund must be maintained by assessing employers insured by plan No. 1, plan No. 2, and plan No. 3 an amount as provided in subsections (2) through (10).

(b) The board of investments shall invest the money in the assistance fund. The investment income must be deposited in the assistance fund.

(2) The assessment amount is the total amount paid by the assistance fund in the preceding fiscal year less other realized income that is deposited in the assistance fund. Allocation of the total assessment amount among employers insured by plan No. 1, plan No. 2, and plan No. 3 must be based on each plan's proportionate share of money expended from the assistance fund for the calendar year preceding the year in which the assessment is collected.

(3) On or before May 31 of each year, the department shall notify each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund, of the amount to be assessed for the ensuing fiscal year. On or before April 30 of each year, the department shall consult with the advisory organization designated under 33-16-1023 and notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge rate to be effective for policies written or renewed on or after July 1 in that year.

(4) The portion of the plan No. 1 assessment assessed against an individual plan No. 1 employer is the amount actually expended by the assistance fund on behalf of injured workers employed by that plan No. 1 employer. A group of employers insured jointly under plan No. 1 is considered to be an individual employer for the purposes of this subsection.

(5) After subtracting plan No. 1 assessments from the total assessment, the department shall determine the surcharge rate for plan No. 2 insurers and plan

No. 3, the state fund, by dividing the remaining portion of the assessment by the total amount of premiums paid by employers insured under plan No. 2 or plan No. 3 in the previous calendar year. The numerator for the calculation must be adjusted as provided in subsection (9).

(6) Employers insured under plan No. 2 or plan No. 3 shall pay their portion of the assessment in a surcharge on premiums for policies written or renewed annually on or after July 1.

(7) (a) Each plan No. 2 insurer and plan No. 3, the state fund, shall collect from its policyholders the assessment premium surcharge provided for in subsection (5). When collected, the assessment premium surcharge may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers. The total of this assessment premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted by the insured employer and must be identified as "workers' compensation stay-at-work/return-to-work assistance fund surcharge". Each assessment premium surcharge must be shown as a percentage of the total workers' compensation policyholder premium. This assessment premium surcharge must be collected at the same time and in the same manner as the premium for the coverage. The assessment premium surcharge must be excluded from the definition of premium for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the assessment premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium.

(b) If an employer fails to remit to an insurer the total amount due for the premium and assessment premium surcharge, the amount received by the insurer must be applied to the assessment premium surcharge described in 39-71-201 first, then to the assessment premium surcharge *described in [section 8], then to the assessment premium surcharge* in this section, and then to the surcharge in 39-71-915, with any remaining amount applied to the premium due.

(8) (a) The department shall deposit all assessments due under this section into the assistance fund.

(b) Each plan No. 1 employer shall pay its assessment due under this section by July 1.

(c) Each plan No. 2 insurer and plan No. 3, the state fund, shall remit to the department all assessment premium surcharges collected during a calendar quarter no later than 20 days following the end of the quarter.

(d) If a plan No. 1 employer, a plan No. 2 insurer, or plan No. 3, the state fund, fails to timely pay to the department the assessment or assessment premium surcharge under this section, the department may impose on the plan No. 1 employer, the plan No. 2 insurer, or plan No. 3, the state fund, an administrative fine of $100 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the assistance fund.

(9) Each year, the department shall compare the amount of the assessment premium surcharge actually collected pursuant to subsection (5) with the amount assessed and upon which the premium surcharge was calculated. The amount undercollected or overcollected in any given year must be used as an adjustment to the numerator for the following year's assessment premium surcharge as provided in subsection (5).

(10) If the total assessment is less than $100,000 for any year, the department may defer the assessment for that year and add that amount to the assessment amount for the subsequent year.

(11) As used in this section, "money expended" means expenditures for stay-at-work/return-to-work assistance from the assistance fund."

Section 4. Section 50-71-113, MCA, is amended to read:

"50-71-113. Administrative authority — funding. (1) The department has authority to administer the provisions of this part.

(2) In addition to administering the provisions of this part, the department may:

(a) promote occupational safety and health;

(b) educate employers and employees in occupational safety and health matters;

(c) conduct research regarding occupational safety and health data, topics, and techniques; and

(d) investigate occupational injuries, illnesses, and deaths involving public sector employees.

(3) The department may develop and operate a statewide employment safety program. The statewide employment safety program may include but is not limited to:

(a) a safety awareness component;

(b) an employee education component;

(c) an employer education component; and

(d) industry-specific initiatives.

(4) The activities of the department under the provisions of this part are funded by the ~~workers' compensation~~ *occupational safety and health* administration fund provided *for* in ~~39-71-201~~ *[section 8]*.

(5) The department may accept, receive, and administer gifts, grants, or other funds from public or private agencies and from the United States for the purpose of carrying out the provisions of this part. Funds received by the department under this subsection must be deposited into the fund provided for in ~~39-71-201~~ *[section 8]*."

Section 5. Section 50-71-119, MCA, is amended to read:

"50-71-119. Report of inspection — violations — penalty — appeal process. (1) (a) The department shall make a written report of each inspection ~~that it conducts~~ *conducted* under 50-71-118.

(b) The inspection report must include a list of violations of standards that the inspector discovered during the inspection. A violation of a standard by a public sector employee is attributable to the public sector employer for the purposes of this part.

(c) The department shall provide a copy of the inspection report to the public sector employer and to a representative of a labor organization that represents public sector employees at the workplace that was inspected.

(d) The public sector employer shall post a copy of the list of hazards included in the inspection report at one or more visible locations at the workplace that is the subject of the inspection report. The posting must be in a location likely to be seen by employees at that workplace.

(2) The department may issue a written citation to the public sector employer for a violation of a standard. The citation must specify:

(a) the nature of the violation;

(b) the standard that was violated; and

(c) a timeframe within which the public sector employer is required to correct the violation.

(3) (a) The department may impose upon a public sector employer a monetary penalty of not more than $1,000 for each violation for which a citation has been issued.

(b) The department may, in its sole discretion, waive or reduce a penalty under this subsection (3) if the public sector employer timely corrects or cures the violation for which the penalty was imposed.

(c) Monetary penalties collected pursuant to this subsection (3) must be deposited into the ~~workers' compensation~~ *occupational safety and health* administration fund provided for in ~~39-71-201~~ *[section 8]*.

(4) (a) A public sector employer may appeal a citation or a penalty.

(b) An appeal to the department must be in writing and made within 30 days of the issuance of the citation.

(c) The appeal of a citation or a penalty is conducted as a contested case under Title 2, chapter 4."

Section 6. Section 50-72-106, MCA, is amended to read:

"50-72-106. Safety and industrial health consultation services authorized — recovery of expenses. (1) The department may provide onsite safety and industrial health consultation services to mine operators that request onsite safety and industrial health consultation services.

(2) The department may not charge for the consultation provided by this section, but it may recover from the mine operator the cost of test kits, sampling media, associated laboratory fees, and other reasonable expenses incurred during the consultation.

(3) Expenses recovered pursuant to subsection (2) must be deposited into the occupational safety and health administration fund provided for in [section 8]."

Section 7. Section 50-73-107, MCA, is amended to read:

"50-73-107. Safety and industrial health consultation services authorized — recovery of expenses. (1) The department may provide onsite safety and industrial health consultation services to mine operators that request onsite safety and industrial health consultation services.

(2) The department may not charge for the consultation provided by this section, but it may recover from the mine operator the cost of test kits, sampling media, associated laboratory fees, and other reasonable expenses incurred during the consultation.

(3) Expenses recovered pursuant to subsection (2) must be deposited into the occupational safety and health administration fund provided for in [section 8]."

Section 8. Occupational safety and health administration fund. (1) (a) An occupational safety and health administration fund is established, out of which are to be paid upon lawful appropriation all costs incurred by the department on or after July 1, 2016, in administering Title 50, chapters 71, 72, and 73.

(b) The department shall collect and deposit in the state treasury to the credit of the occupational safety and health administration fund:

(i) all penalties assessed under 50-71-119;

(ii) all expenses recovered under 50-72-106 and 50-73-107;

(iii) all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section; and

(iv) any grants or funds from private entities or the federal government intended for use by the department in defraying occupational safety and health costs.

(2) For the purposes of this section, the term "paid losses" has the meaning provided in 39-71-201.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses.

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share, as determined by the paid losses in the preceding calendar year, of all costs appropriated for the next fiscal year for the purposes of administering Title 50, chapters 71, 72, and 73.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 2% of the paid losses that were paid in the preceding calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 2% of the paid losses that were paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. The assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of $500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the occupational safety and health administration fund.

(6) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "occupational safety and health regulatory assessment surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of

establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed on insured employers.

(b) (i) The amount to be funded by the premium surcharge may be up to 2% of the paid losses that were paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to 2% of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (6)(f).

(ii) The amount determined under subsection (6)(b)(i) must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year.

(iii) A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this section, the department may impose on the insurer an administrative fine of $500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the occupational safety and health administration fund.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by the insurer must be applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

(7) By July 1, an insurer under compensation plan No. 2 that paid benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to 2% of the paid losses that were paid in the preceding calendar year. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

(8) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(9) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of Title 50, chapters 71, 72, and 73, including the salaries of its members, officers, and employees and

the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state.

(10) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(11) The department may assess and collect the occupational safety and health regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the occupational safety and health administration fund.

Section 9. Codification instruction. [Section 8] is intended to be codified as an integral part of Title 50, chapter 71, part 1, and the provisions of Title 50, chapter 71, part 1, apply to [section 8].

Section 10. Transition — contingency provision. If [this act] is passed and approved on or after May 1, 2015, the department of labor and industry:

(1) shall as promptly as feasible prepare and send the billing statements for assessments due on July 1, 2015, according to the provisions of [this act]; and

(2) is exempt for the year 2015 from the April 30 deadline provided for assessments under 39-71-201(7)(c).

Section 11. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2015.

(2) [Section 10] and this section are effective on passage and approval.

Approved April 29, 2015

CHAPTER NO. 366

[SB 308]

AN ACT PROVIDING A PROPERTY TAX EXEMPTION FOR CERTAIN PROPERTY LEASED TO A COUNTY, MUNICIPALITY, OR TAXING UNIT FOR PUBLIC PURPOSES; REQUIRING THAT THE PROPERTY BE USED FOR PUBLIC PARK, RECREATION, OR BEAUTIFICATION PURPOSES; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. Governmental, charitable, and educational categories — exempt property. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

(iv) municipal corporations;

(v) public libraries;

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(vii) special districts created pursuant to Title 7, chapter 11, part 10; and

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;

(c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;

(d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;

(e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

(i) is not operated for gain or profit;

(ii) has an attendance policy; and

(iii) has a definable curriculum with systematic instruction;

(f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

(g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(h) property that is:

(i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21; or

(B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(j) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(n) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit; ~~and~~

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(p) property rented or leased to a municipality or taxing unit for less than $100 a year and that is used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(c) For the purposes of subsection (1)(i):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit

organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014.

Approved April 29, 2015

CHAPTER NO. 367

[SB 364]

AN ACT NAMING THE MONTANA HERITAGE CENTER AFTER BETTY BABCOCK AND REQUIRING A PLAQUE COMMEMORATING HER TO BE DISPLAYED AT THE CENTER; AND AMENDING SECTION 2-17-807, MCA.

WHEREAS, Betty Babcock epitomized the best in citizenship in Montana over her long life of 91 years, from her early years in Glendive and then on to Miles City, Billings, and finally Helena; and

WHEREAS, Betty Babcock served Montana in many roles, including as First Lady from 1962 to 1969, as one of several female delegates to the 1972 Montana Constitutional Convention, and as a representative from Helena in the Montana House of Representatives in the 44th Legislature; and

WHEREAS, Betty Babcock defined civic-mindedness throughout her life and was a stalwart supporter of anything Montana, from the 1964 Centennial Train to serving on the Helena/Lewis and Clark County Historic Preservation Commission to cochairing the Capitol Restoration Commission; and

WHEREAS, Betty Babcock championed the construction of a new Montana Historical Society museum, but her dream was not realized before her passing; and

WHEREAS, there could be no better tribute to Betty Babcock and her legacy than to name the proposed Montana Heritage Center after this great Montanan.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-807, MCA, is amended to read:

"2-17-807. Approval for displays and naming buildings, spaces, and rooms. (1) A state building, space, or room in the capitol complex may not be named after an individual or a bust, plaque, statue, memorial, monument, or art display may not be displayed on a long-term basis in the capitol complex or on the capitol complex grounds unless the building, space, or room name or display is approved by the legislature and complies with this part. The capitol building, including any future additions and expansions, may not be named after any person, as defined in 2-4-102.

(2) (a) Except as provided in subsections (2)(b) through ~~(2)(c)~~ *(2)(f)*, a state building, space, or room in the capitol complex may not be named after an individual or a bust, plaque, statue, memorial, monument, or art display commemorating an individual may not be displayed on a long-term basis in the capitol complex unless the individual has been deceased for at least 10 years.

(b) The statue of Mike and Maureen Mansfield authorized in 2-17-808(1)(d)(iii) and the plaque commemorating President George H. W. Bush authorized in 2-17-808(2)(b)(ii) may continue to be displayed in the capitol complex.

(c) ~~A~~ *Except as provided in subsection (2)(f), a* public building within the capitol complex constructed with private funds after April 17, 2007, or a space or room constructed with private funds after April 17, 2007, in a public building, other than the capitol building, may bear a name designated by the benefactor of the building, space, or room if:

(i) the building, space, or room is to be owned by or used exclusively or primarily by the Montana historical society to store or display artifacts or other property owned by the Montana historical society; and

(ii) the building, space, or room and the designated name are approved by the council and by the board of the historical society, provided for in 2-15-1512.

(d) The classroom building authorized in May 2007 to be built at the Montana law enforcement academy may be named after Karl Ohs, and a plaque and the Lou Peters award commemorating Karl Ohs may be displayed there.

(e) The justice building located at 215 North Sanders in Helena must be named after Joseph P. Mazurek, and a plaque and memorial commemorating him may be displayed on the capitol complex grounds.

(f) The Montana heritage center must be named after Betty Babcock, and a plaque commemorating her must be displayed there.

(3) A bust, plaque, statue, memorial, monument, or art display commemorating an event, including a military event, may not be displayed on a long-term basis in the capitol complex until 10 years after the end of the event.

(4) All busts, plaques, statues, memorials, monuments, or art displays authorized, but not installed within 5 years of authorization, must be reauthorized.

(5) The department of administration may review and approve the temporary display of a bust, plaque, statue, memorial, monument, or art display for up to 1 year in the capitol complex or on the capitol complex grounds."

Approved April 29, 2015

CHAPTER NO. 368

[SB 405]

AN ACT CREATING THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT TO EXPAND HEALTH CARE COVERAGE TO ADDITIONAL INDIVIDUALS, IMPROVE ACCESS TO HEALTH CARE SERVICES, AND CONTROL HEALTH CARE COSTS; ESTABLISHING A HEALTH CARE COVERAGE PROGRAM TO PROVIDE CERTAIN LOW-INCOME MONTANANS WITH ACCESS TO HEALTH CARE SERVICES USING MEDICAID FUNDS AND AN ARRANGEMENT WITH A THIRD-PARTY ADMINISTRATOR; IMPLEMENTING CERTAIN MEDICAID REFORMS; PROVIDING STATUTORY APPROPRIATIONS FOR COSTS OF PROVIDING HEALTH CARE SERVICES; PROVIDING SUPPORT FOR

HEALTH CARE DELIVERY ACROSS MONTANA; PROVIDING WORKFORCE DEVELOPMENT OPPORTUNITIES FOR PROGRAM PARTICIPANTS; ESTABLISHING TIME LIMITS FOR SERVICE OF PROCESS IN MEDICAL MALPRACTICE CLAIMS; ESTABLISHING AN OVERSIGHT COMMITTEE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502 AND 27-2-205, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 13], [sections 14 through 17], and [section 19] may be cited as the "Montana Health and Economic Livelihood Partnership (HELP) Act".

Section 2. Montana HELP Act program — legislative findings and purpose. (1) There is a Montana Health and Economic Livelihood Partnership Act program established through a collaborative effort of the department of public health and human services and the department of labor and industry to:

(a) provide coverage of health care services for low-income Montanans;

(b) improve the readiness of program participants to enter the workforce or obtain better-paying jobs; and

(c) reduce the dependence of Montanans on public assistance programs.

(2) The legislature finds that improving the delivery of health care services to Montanans requires state government, health care providers, patient advocates, and other parties interested in high-quality, affordable health care to collaborate in order to:

(a) increase the availability of high-quality health care to Montanans;

(b) provide greater value for the tax dollars spent on the Montana medicaid program;

(c) reduce health care costs;

(d) provide incentives that encourage Montanans to take greater responsibility for their personal health;

(e) boost Montana's economy by reducing the costs of uncompensated care; and

(f) reduce or minimize the shifting of payment for unreimbursed health care costs to patients with health insurance.

(3) The legislature further finds that providing greater value for the dollars spent on the medicaid program requires considering options for delivering services in a more efficient and cost-effective manner, including but not limited to:

(a) offering incentives to encourage health care providers to achieve measurable performance outcomes;

(b) improving the coordination of care among health care providers who participate in the medicaid program;

(c) reducing preventable hospital readmissions; and

(d) exploring methods of medicaid payment that promote quality of care and efficiencies.

(4) The legislature further finds that assessing workforce readiness and providing necessary job training or skill development for individuals who need assistance with health care costs could help those individuals obtain employment that has health care coverage benefits or that would allow them to purchase their own health insurance coverage.

(5) The legislature further finds that:

(a) it is important to implement additional fraud, waste, and abuse safeguards to protect and preserve the integrity of the medicaid program and the unemployment insurance program for individuals who qualify for the programs; and

(b) state policymakers have an interest in testing the effectiveness of wellness incentives in order to collect and analyze information about the correlation between wellness incentives and health status.

(6) The purposes of the act are to:

(a) modify and enhance Montana's health care delivery system to provide access to high-quality, affordable health care for all Montana citizens; and

(b) provide low-income Montanans with opportunities to improve their readiness for work or to obtain higher-paying jobs.

(7) The department of labor and industry and the department of public health and human services shall maximize the use of existing resources in administering the program.

Section 3. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) "HELP Act" or "act" means the Montana Health and Economic Livelihood Partnership Act provided for in [sections 1 through 13] and [sections 14 through 17].

(3) "Member" means an individual enrolled in the Montana medicaid program pursuant to 53-6-131 or receiving medicaid-funded services pursuant to [section 4].

(4) "Program participant" or "participant" means an individual enrolled in the Montana Health and Economic Livelihood Partnership Act program established in [sections 1 through 13] and [sections 14 through 17].

Section 4. Montana HELP Act program — eligibility for coverage of health care services — statutory appropriations — federal special revenue. (1) An individual is eligible for coverage of health care services provided pursuant to [sections 1 through 13] if the individual meets the requirements of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(2) Funds necessary to implement [sections 1 through 13], including benefits and administrative costs, are statutorily appropriated, as provided in 17-7-502, from the general fund to the department of public health and human services.

(3) There is an account in the federal special revenue fund to the credit of the department of public health and human services for the payment of costs, including benefits and administrative costs, of providing health care services to individuals who are eligible for coverage pursuant to subsection (1).

(4) The federal medical assistance percentage received pursuant to 42 U.S.C. 1396d(y) must be deposited in the account provided for in subsection (3).

(5) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of public health and human services for the purpose provided in subsection (3).

Section 5. Montana HELP Act program — delivery of health care services — third-party administrator — rulemaking. (1) The department shall contract as provided in Title 18, chapter 4, with one or more third-party

administrators to assist in administering the delivery of health care services to members eligible under [section 4], including but not limited to:

(a) establishing networks of health care providers;

(b) paying claims submitted by health care providers;

(c) collecting the premiums provided for in [section 7];

(d) coordinating care;

(e) helping to administer the program; and

(f) helping to administer the medicaid program reforms as specified in [section 8].

(2) The department shall determine the basic health care services to be provided through the arrangement with a third-party administrator.

(3) (a) The department may exempt certain individuals who are eligible for medicaid-funded services pursuant to [section 4] from receiving health care services through the arrangement with a third-party administrator if the individuals would be served more appropriately through the medical assistance program established in Title 53, chapter 6, part 1, because the individuals:

(i) have exceptional health care needs, including but not limited to medical, mental health, or developmental conditions;

(ii) live in a geographical area, including an Indian reservation, for which the third-party administrator has been unable to make arrangements with sufficient health care providers to offer services to the individuals; or

(iii) need continuity of care that would not be available or cost-effective through the arrangement with the third-party administrator; or

(iv) are otherwise exempt under federal law.

(b) The department shall:

(i) adopt rules establishing criteria for determining whether a member is exempt from receiving health care services through an arrangement with a third-party administrator; and

(ii) provide coverage for exempted individuals through the medical assistance program established in Title 53, chapter 6, part 1.

(4) For members participating in the arrangement with the third-party administrator, the department shall directly cover any service required under federal or state law that is not available through the arrangement with the third-party administrator.

(5) The department shall:

(a) seek federal authorization from the U.S. department of health and human services through a waiver authorized by 42 U.S.C. 1315 and other waivers or through other means, as may be necessary, to implement all of the provisions of [sections 1 through 13] and [sections 14 through 17]; and

(b) implement access to the health care services in accordance with the requirements necessary to receive the federal medical assistance percentage provided for by 42 U.S.C. 1396d(y).

(6) The department may provide medicaid-funded services to members eligible pursuant to [section 4] only upon federal approval of any necessary waivers.

Section 6. Copayments — exemptions — report. (1) A program participant shall make copayments to health care providers for health care services received pursuant to [sections 1 through 13].

(2) Except as provided in subsection (3), the department shall adopt a copayment schedule that reflects the maximum copayment amount allowed under federal law. The total amount of copayments collected under this section must be capped at the maximum amount allowed by federal law and regulations.

(3) The department may not require a copayment for:

(a) preventive health care services;

(b) generic pharmaceutical drugs;

(c) immunizations provided according to a schedule established by the department that reflects guidelines issued by the centers for disease control and prevention; or

(d) medically necessary health screenings ordered by a health care provider.

(4) Each health care provider participating in the third-party arrangement shall report the following information annually to the oversight committee on the Montana Health and Economic Livelihood Partnership Act:

(a) the total amount of copayments that the provider was unable to collect from participants; and

(b) the efforts the health care provider made to collect the copayments.

Section 7. Premiums — collection of overdue premiums — nonpayment as voluntary disenrollment — reenrollment — exemptions. (1) (a) A program participant shall pay an annual premium, billed monthly, equal to 2% of the participant's income as determined in accordance with 42 U.S.C. 1396a(e)(14).

(b) Premiums paid pursuant to this section must be deposited in the general fund.

(2) Within 30 days of a participant's failure to make a required payment, the third-party administrator shall notify the participant and the department that payment is overdue and that all overdue premiums must be paid within 90 days of the date the notification was sent.

(3) (a) If a participant with an income of 100% of the federal poverty level or less fails to make payment for overdue premiums, the department shall provide notice to the department of revenue of the participant's failure to pay. The department of revenue shall collect the amount due for nonpayment by assessing the amount against the participant's annual income tax in accordance with Title 15, chapters 1 and 30.

(b) The debt remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.

(4) If a participant with an income of more than 100% but not more than 138% of the federal poverty level fails to make the overdue payments within 90 days of the date the notification was sent, the department shall:

(a) follow the procedure established in subsection (3) for collection of the unpaid premiums; and

(b) consider the failure to pay to be a voluntary disenrollment from the program. The department may reenroll a participant in the program upon payment of the total amount of overdue payments.

(5) If a participant who has failed to pay the premiums does not indicate that the participant no longer wishes to participate in the program, the department may reenroll the person in the program when the department of revenue assesses the unpaid premium through the participant's income taxes.

(6) Participants who meet two of the following criteria are not subject to the voluntary disenrollment provisions of this section:

(a) discharge from United States military service within the previous 12 months;

(b) enrollment for credit in any Montana university system unit, a tribal college, or any other accredited college within Montana offering at least an associate degree, subject to the provisions of subsection (7);

(c) participation in a workforce program or activity established under [sections 14 through 17]; or

(d) participation in any of the following healthy behavior plans developed by a health care provider or third-party administrator or approved by the department:

(i) a medicaid health home;

(ii) a patient-centered medical home;

(iii) a cardiovascular disease, obesity, or diabetes prevention program;

(iv) a program restricting the participant to obtaining primary care services from a designated provider and obtaining prescriptions from a designated pharmacy;

(v) a medicaid primary care case management program established by the department;

(vi) a tobacco use prevention or cessation program;

(vii) a medicaid waiver program providing coverage for family planning services;

(viii) a substance abuse treatment program; or

(ix) a care coordination or health improvement plan administered by the third-party administrator.

(7) A participant seeking an exemption under subsection (6) is not eligible for the education exemption provided for in subsection (6)(b) for more than 4 years.

Section 8. Medicaid program reforms. (1) To ensure that the Montana medicaid program is administered efficiently and effectively, the department shall strengthen existing programs that manage the way members obtain approval for medical services and shall establish additional programs designed to reduce costs and improve medical outcomes. The efforts may include but are not limited to:

(a) establishing by rule requirements designed to strengthen the relationship between physicians and members enrolled in existing primary care case management programs;

(b) strengthening data-sharing arrangements with providers to reduce inappropriate use of emergency room services and overuse of other services;

(c) expanding to additional members any existing programs in which case managers and providers work with members with high-risk medical conditions to provide preventive care and advice and to make referrals for medical services;

(d) establishing, within existing funds, one or more pilot programs to improve the health of members, including but not limited to efforts to increase pain management, decrease emergency department overuse, and prevent drug or alcohol addiction or abuse;

(e) reviewing existing primary care case management programs to evaluate and improve their effectiveness;

(f) reducing fraud, waste, and abuse in the medicaid program before, during, and after enrollment by enhancing technology system support to provide knowledge-based authentication for verifying the identity and financial status of individuals seeking benefits, including the use of public records to confirm identity and flag changes in demographics; and

(g) engaging members with chronic or other medical or behavioral health conditions in coordinated care models that more closely monitor and manage a member's health to reduce costs or improve medical outcomes. These coordinated care models may include but are not limited to:

(i) patient-centered medical homes;

(ii) accountable care organizations;

(iii) managed care organizations as defined in 42 CFR 438.2;

(iv) health improvement programs;

(v) health homes for behavioral health or other chronic conditions; and

(vi) changes to current service delivery methods.

(2) The department may ask a third-party administrator under contract with the department to assist in efforts undertaken pursuant to subsection (1) when the activity can appropriately be handled by the third-party administrator.

(3) A care coordination entity used to deliver medicaid services shall meet all state standards for operation, including but not limited to solvency, consumer protection, nondiscrimination, network adequacy, care model design, and fraud and abuse standards.

Section 9. Health care services payment schedules. (1) The department of corrections and the department of public health and human services shall reimburse health care service for individuals identified in subsection (2) at the rates adopted by the department for the medicaid program under Title 53, chapter 6, part 1, if the health care services are not otherwise covered by medicaid, medicare, a health insurer, or another private or governmental program that pays for health care costs.

(2) This section applies to individuals:

(a) in the custody of the department of corrections; or

(b) who are residents, by commitment or otherwise, of the Montana state hospital, the Montana mental health nursing care center, the Montana chemical dependency center, and the Montana developmental center.

Section 10. Reduction in federal medical assistance percentage. If the federal medical assistance percentage for medical services provided to individuals eligible for medicaid-funded services pursuant to [section 4] is set below the levels established in 42 U.S.C. 1396d(y)(1) on [the effective date of this act], the continuation of coverage under [sections 1 through 13] is contingent on:

(1) the appropriation of additional state general fund or other action by the legislature;

(2) the ability of the department to increase premiums assessed under [section 7] to pay the difference; or

(3) a combination of legislative action and premium increases as necessary to provide for the increased state match obligation.

Section 11. Montana HELP Act oversight committee — membership. (1) There is an oversight committee on the Montana Health and Economic Livelihood Partnership Act made up of members of the legislature and of other Montana citizens.

(2) The committee consists of nine voting members appointed no later than May 30, 2015, as follows:

(a) two senators, one appointed by the president of the senate and one appointed by the senate minority leader;

(b) two representatives, one appointed by the speaker of the house and one appointed by the house minority leader; and

(c) five individuals appointed by the governor as follows:

(i) one representative of a hospital as defined in 50-5-101;

(ii) one representative of a critical access hospital as defined in 50-5-101;

(iii) one primary care physician;

(iv) one representative of the state auditor's office; and

(v) one member of the general public or a staff member of the governor's office.

(3) The state medicaid director or the director's designee, the commissioner of labor and industry or the commissioner's designee, and a designee of the third-party administrator are ex officio members of the committee.

(4) The presiding officer and vice presiding officer must be elected by a majority of the committee members.

(5) The presiding officer shall establish the meeting schedule. The council shall meet at least quarterly.

(6) (a) Except as provided in subsection (6)(b), members are entitled to receive compensation and expenses as provided in 5-2-302.

(b) Ex officio members are not entitled to compensation or reimbursement of expenses.

(7) (a) Except as provided in subsection (7)(b), members shall serve 4-year terms. Vacancies on the committee must be filled by the same appointing authority.

(b) A member who was appointed while a senator or a representative but who is no longer serving in the legislature must be replaced by the appointing authority.

(8) The committee is attached to the department for administrative purposes, including staffing.

(9) The committee may contract for services that will help members carry out their duties, subject to available funding and in accordance with the provisions of Title 18, chapter 4.

Section 12. Duties of Montana HELP Act oversight committee — reports. (1) To provide reports and make recommendations to the legislature, the oversight committee on the Montana Health and Economic Livelihood Partnership Act shall review:

(a) data from and activities by the department of public health and human services and the department of labor and industry related to the health care and workforce development activities undertaken pursuant to the HELP Act;

(b) the Montana medicaid program; and

(c) the delivery of health care services in Montana.

(2) The departments shall report the following information to the oversight committee quarterly:

(a) the number of individuals who were determined eligible for medicaid-funded services pursuant to [section 4];

(b) demographic information on program participants;

(c) the average length of time that participants remained eligible for medical assistance;

(d) the number of participants who completed an employment or reemployment assessment;

(e) the number of participants who took part in workforce development activities;

(f) the number of participants subject to the fee provided for in [section 18] and the total amount of fees collected;

(g) the level of participant engagement in wellness activities or incentives offered by health care providers or the third-party administrator;

(h) the number of participants who reduced their dependency on the HELP Act program, either voluntarily or because of increased income levels; and

(i) the total cost of providing services under [sections 1 through 13] and [sections 14 through 17], including related administrative costs.

(3) The committee shall review and provide comment on administrative rules proposed for carrying out activities under [sections 1 through 13] and [sections 14 through 17]. The committee may ask the appropriate administrative rule review committee to object to a proposed rule as provided in 2-4-406.

(4) The committee shall:

(a) review how implementation of the act is being carried out, including the collection of copayments and premiums for health care services;

(b) evaluate how health care services are delivered and whether new approaches could improve delivery of care, including but not limited to the use of medical homes and coordinated care organizations;

(c) review ideas to reduce or minimize the shifting of the payment of unreimbursed health care costs to patients with health insurance;

(d) evaluate whether providing incentives to health care providers for meeting measurable benchmarks may improve the delivery of health care services;

(e) review options for reducing the inappropriate use of emergency department services;

(f) review ways to monitor for the excessive or inappropriate use of prescription drugs;

(g) examine ways to:

(i) promote the appropriate use of health care services, particularly laboratory and diagnostic imaging services;

(ii) increase the availability of mental health services;

(iii) reduce fraud and waste in the medicaid program; and

(iv) improve the sharing of data among health care providers to identify patterns in the use of health care services across payment sources;

(h) receive regular reports from the department on the department's efforts to pursue contracting options for administering services to members eligible for medicaid-funded services pursuant to [section 4];

(i) coordinate its efforts with any legislative committees that are working on matters related to health care and the delivery of health care services; and

(j) recommend future funding options for the HELP Act program to future legislatures.

(5) The committee shall summarize and present its findings and recommendations in a final report to the governor and to the legislative finance committee no later than August 15 of each even-numbered year. Copies of the report must be provided to the children, families, health, and human services interim committee.

Section 13. Rulemaking authority. (1) The department may adopt rules as necessary to carry out [sections 1 through 13].

(2) The department and the department of labor and industry may, in coordination, adopt rules as necessary for the implementation of the employment and reemployment assessments and workforce development activities provided for in [sections 14 through 17].

Section 14. Montana HELP Act workforce development — legislative findings — purpose. (1) The legislature finds that:

(a) Montana has a disproportionately high number of individuals who are eligible for medicaid compared to surrounding states;

(b) Montanans value independence and self-sufficiency;

(c) investing in Montana citizens is a legislative priority;

(d) participants in the HELP Act program are largely low-wage workers; and

(e) an opportunity exists to match individuals who need self-sustaining employment with the jobs the economy needs, including newly created health care jobs.

(2) The purpose of [sections 14 through 17] is to create a collaborative effort between the department of labor and industry and the department of public health and human services to:

(a) identify workforce development opportunities for program participants;

(b) gather information from state agencies on existing workforce development programs and opportunities; and

(c) establish a comprehensive plan for coordinating efforts and resources to provide workforce development opportunities.

(3) The department of labor and industry shall implement a workforce development program that:

(a) focuses on specific labor force needs within the state of Montana;

(b) has the goal of reducing the number of people depending on social programs, including the HELP Act program; and

(c) increases the earning capacity, economic stability, and self-sufficiency of program participants so that, among other benefits, they are able to purchase their own health insurance coverage.

Section 15. Definitions. As used in [sections 14 through 17], the following definitions apply:

(1) "Department" means the department of labor and industry provided for in 2-15-1701.

(2) "HELP Act" or "act" means the Montana Health and Economic Livelihood Partnership Act provided for in [sections 1 through 13] and [sections 14 through 17].

(3) "Program participant" means an individual participating in the HELP Act program.

Section 16. Montana HELP Act workforce development — participation — report. (1) The department shall provide individuals

receiving assistance for health care services pursuant to [sections 1 through 13] with the option of participating in an employment or reemployment assessment and in the workforce development program provided for in [section 14]. The assessment must identify any probable barriers to employment that exist for the member.

(2) (a) The department of labor and industry shall notify the department of public health and human services when a participant has received all services and assistance under subsection (1) that can reasonably be provided to the individual.

(b) The department of labor and industry is not required to provide further services under this section after it has provided the notification provided for in subsection (2)(a).

(c) A participant who is no longer receiving services under this section does not meet the criteria of [section 7(6)(c)] for the exemption granted under [section 7(6)].

(3) The department shall report the following information to the oversight committee provided for in [section 11]:

(a) the activities undertaken to establish a workforce development program for program participants; and

(b) the number of participants in the workforce development program and the number of participants who have obtained employment or higher-paying employment.

(4) To the extent possible, the department of public health and human services shall offset the cost of workforce development activities provided under this section by using temporary assistance for needy families reserve funds.

(5) The department shall reduce fraud, waste, and abuse in determining and reviewing eligibility for unemployment insurance benefits by enhancing technology system support to provide knowledge-based authentication for verifying the identity and employment status of individuals seeking benefits, including the use of public records to confirm identity and to flag changes in demographics.

Section 17. Rulemaking authority. The department may adopt rules to carry out the purposes of [sections 14 through 17] and may coordinate as necessary with the department of public health and human services in adoption of the rules.

Section 18. Taxpayer integrity fee. (1) The department shall assess a fee as provided in subsection (2) for a taxpayer who:

(a) is a participant in the Montana Health and Economic Livelihood Partnership Act provided for in [sections 1 through 13] and [sections 14 through 17]; and

(b) has assets that exceed:

(i) a primary residence and attached property valued above the limit established for homesteads under 70-32-104;

(ii) one light vehicle; and

(iii) a total of $50,000 in cash and cash equivalent.

(2) The fee is $100 a month plus an additional $4 a month for each $1,000 in assets above the amounts established in subsection (1)(b).

(3) The department shall coordinate with the department of public health and human services to obtain the information necessary to administer this section.

(4) Fees collected pursuant to this section must be deposited in the general fund.

(5) The fee remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.

(6) For the purposes of this section, the following definitions apply:

(a) (i) "Cash equivalent" means cash, including any money issued by the United States or by the sovereign government of another country, and, if reasonably convertible into cash with 1 year:

(A) personal property, including but not limited to vehicles, precious metal as defined in 30-10-103, jewelry, artwork, and gemstones; and

(B) personal property, including but not limited to certificates of deposit, certificates of stock, government or corporate bonds or notes, promissory notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises.

(ii) Real estate and improvements to real estate are not cash equivalents.

(b) "Light vehicle" has the meaning provided in 61-1-101.

Section 19. Medical malpractice claims — time limit. A plaintiff in a medical malpractice action shall accomplish service within 6 months after filing the complaint. If the plaintiff fails to do so, the court, on motion or on its own initiative, shall dismiss the action without prejudice unless the defendant has made an appearance.

Section 20. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; *[section 4];* 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other

obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 21. Section 27-2-205, MCA, is amended to read:

"27-2-205. Actions for medical malpractice. (1) Action in tort or contract for injury or death against a physician or surgeon, *physician assistant,* dentist, *dental hygienist,* registered nurse, *advanced practice registered nurse,* nursing home or hospital administrator, dispensing optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, a licensed hospital or long-term care facility, or licensed medical professional corporation, based upon alleged professional negligence or for rendering professional services without consent or for an act, error, or omission, must, except as provided in subsection (2), be commenced within ~~3~~ *2* years after the date of injury or within ~~3~~ *2* years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs last, but in no case may an action be commenced after 5 years from the date of injury. However, this time limitation is tolled for any period during which there has been a failure to disclose any act, error, or omission upon which an action is based and that is known to the defendant or through the use of reasonable diligence subsequent to the act, error, or omission would have been known to the defendant.

(2) Notwithstanding the provisions of 27-2-401, in an action for death or injury of a minor who was under the age of 4 on the date of the minor's injury, the period of limitations in subsection (1) begins to run when the minor reaches the minor's eighth birthday or dies, whichever occurs first, and the time for commencement of the action is tolled during any period during which the minor does not reside with a parent or guardian."

Section 22. Appropriations. (1) There is appropriated from the state general fund for the biennium beginning July 1, 2015, the following:

(a) $1,761,476 to the department of labor and industry for the purposes of [sections 14 through 17]; and

(b) $393,213 to the department of revenue for the purposes of [section 18].

(2) These appropriations are to be considered base funding for the preparation of the 2019 biennium budget.

Section 23. Transition. (1) For the successful and appropriate implementation of [sections 1 through 13], the department of public health and human services may initiate eligibility processing and other measures necessary for implementation of [sections 4 and 5] prior to the date that health care services provided pursuant to [section 5] are covered.

(2) The department may implement coverage of health care services for individuals eligible pursuant to [section 4] only after:

(a) the department has obtained the approvals and waivers needed from the U.S. department of health and human services to receive the federal medical assistance percentage provided for in 42 U.S.C. 1396d(y) for individuals eligible for coverage pursuant to [section 4] and to provide services in accordance with [sections 1 through 17]; and

(b) all necessary administrative arrangements, including contract services, are in place.

Section 24. Codification instruction. (1) [Sections 1 through 13] are intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [sections 1 through 13].

(2) [Sections 14 through 17] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 14 through 17].

(3) [Section 18] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 18].

(4) [Section 19] is intended to be codified as an integral part of Title 25, chapter 3, part 1, and the provisions of Title 25, chapter 3, part 1, apply to [section 19].

Section 25. Saving clause. [Sections 19 and 20] do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 26. Nonseverability. Except as provided in subsection (2), it is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

(2) If [section 19 or 20] is held unconstitutional, all other parts are valid.

Section 27. Effective date — contingent effective date. (1) Except as provided in subsection (2), [this act] is effective upon approval by the U.S. department of health and human services of all waivers and approvals necessary to provide medicaid-funded services to individuals eligible pursuant to [section 4] in the manner provided for in [sections 1 through 17].

(2) [Sections 11, 19, 20, and 21] and this section are effective on passage and approval.

(3) The governor shall notify the code commissioner on the occurrence of the contingency provided for in subsection (1).

Section 28. Termination. (1) [This act] terminates June 30, 2019.

(2) The department may reapply for the same waiver received to implement the Montana Health and Economic Livelihood Partnership Act program if the waiver expires before June 30, 2019.

Approved April 29, 2015

CHAPTER NO. 369

[HB 118]

AN ACT REGULATING DELIVERY BY ELECTRONIC MEANS OF INSURANCE NOTICES OR DOCUMENTS; CLARIFYING THE VALIDITY OF AN ELECTRONIC REPRESENTATION OF AN INSURANCE CARD AS PROOF OF MOTOR VEHICLE LIABILITY INSURANCE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 61-6-302, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 8], the following definitions apply:

(1) "Delivered by electronic means", "delivery by electronic means", or "electronic delivery" means:

(a) delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(b) (i) posting on an electronic network or site accessible by the internet through use of a mobile application, computer, mobile device, tablet, or any other electronic device; and

(ii) sending separate notice of the posting to the electronic mail address at which the party has consented to receive notice of the posting or using any other delivery method to which the party has consented.

(2) "Party" means a recipient of a notice or document required as part of an insurance transaction and includes an applicant, insured, policyholder, certificate holder, or annuity contract holder.

Section 2. Electronic delivery permitted. (1) Subject to the requirements of Title 30, chapter 18, 33-19-202(7)(c), and [sections 1 through 8], a notice to a party or any other document that is required in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means.

(2) Electronic delivery of a notice or document as provided in [sections 1 through 8] is equivalent to any delivery method otherwise required by law, including delivery by first-class mail, first-class mail postage prepaid, certified mail, or certificate of mailing.

(3) A requirement in law that a notice or document provided to a party expressly requires verification or acknowledgment of receipt of the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(4) If an insurer has reason to believe that a party is not receiving notices or documents that the insurer attempts to deliver by electronic means, including if the insurer attempts delivery by electronic means and receives a notice that the delivery by electronic means has failed, the insurer shall deliver the notices or documents by first-class mail or by any other delivery method required for the notices or documents.

(5) An insurer may not impose on a party a fee or charge because the party:

(a) refuses to consent to delivery of a notice or a document by electronic means; or

(b) withdraws consent to delivery of a notice or a document by electronic means.

Section 3. Conditions for electronic delivery. (1) An insurer may use electronic delivery of a notice or a document to a party under [sections 1 through 8] if the insurer meets the requirements of subsection (2) of this section and the party:

(a) has affirmatively consented to the electronic delivery method and has not withdrawn the consent;

(b) is provided, before or at the time of giving consent, with a clear and conspicuous statement informing the party of:

(i) the right of the party at any time to have the notice or the document provided or made available in paper form or by another nonelectronic form;

(ii) the right of the party at any time to withdraw consent to have a notice or document delivered by electronic means and any conditions or consequences imposed if consent is withdrawn;

(iii) the specific notice or document or categories of notices or documents that may be delivered by electronic means during the course of the relationship between the insurer and the party;

(iv) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and

(v) the procedures for a party to follow to update information needed to contact the party electronically and to withdraw consent to have a notice or a document delivered by electronic means; and

(c) is provided, before or at the time of giving consent, with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means. The party shall provide electronic consent to the hardware and software requirements or confirm consent electronically in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means.

(2) After the party consents as provided in subsection (1), if a change occurs in hardware or software needed to access or retain a notice or document delivered by electronic means that creates a material risk that the party will not be able to access or retain a notice or document to which the consent applies, the insurer shall provide the party with a statement that:

(a) provides information regarding the revised hardware or software requirements for access to and retention of a notice or document delivered by electronic means; and

(b) recognizes the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under subsection (1)(b)(ii).

(3) Consent to delivery by electronic means remains in effect following a policy modification or renewal if the original consent makes clear that consent continues after a policy modification or renewal.

Section 4. Withdrawal of consent to electronic delivery. (1) Withdrawal of consent to electronic delivery does not affect the legal effectiveness, validity, or enforceability of a notice or a document that is

delivered by electronic means to a party before the withdrawal of consent is effective.

(2) (a) Except as provided in subsection (2)(b), withdrawal of consent by a party becomes effective 15 days after the insurer receives notice of the withdrawal pursuant to the insurer's noticed procedures.

(b) Except as provided in [section 3(2)] or if a party updates contact information pursuant to the insurer's noticed procedures, a withdrawal becomes effective immediately upon the insurer learning that the electronic delivery method currently used is no longer an effective delivery mechanism with respect to the party.

(3) Failure by an insurer to comply with [section 3(2)] may be treated, at the election of the party, as a withdrawal of consent, but the party shall communicate the withdrawal pursuant to the insurer's noticed procedures.

Section 5. Protection of information. An insurer delivering a notice or a document by electronic means shall take appropriate and necessary measures reasonably calculated to ensure that the system for furnishing the notices or documents:

(1) results in actual receipt of transmitted information; and

(2) protects the confidentiality of personal information as defined in 33-19-104.

Section 6. Validity of electronic delivery. The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because the contract or policy was delivered by electronic means if the insurer has obtained the electronic consent of the party as required in [section 3].

Section 7. Application to other laws. The provisions of [sections 1 through 8] do not affect requirements related to content or timing of a notice or document required by laws affecting insurance policies, notices, or documents.

Section 8. Rulemaking. The commissioner may adopt rules necessary to implement the provisions of [sections 1 through 8].

Section 9. Section 61-6-302, MCA, is amended to read:

"61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance, or a posted indemnity bond, as required by 61-6-301.

(2) *(a)* Each owner or operator of a motor vehicle shall carry in the motor vehicle an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. If the card is issued under a commercial automobile insurance policy or a self-insured fleet, the card must indicate the status as "commercially insured" or "fleet". A motor vehicle owner or operator shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. A person commits an offense under this subsection if the person fails to carry the insurance card in a motor vehicle or fails to exhibit the insurance card upon demand of a person specified in this subsection.

(b) For the purposes of this subsection (2), "insurance card" includes an electronic representation or equivalent of a documentary insurance card that the insurer delivers by electronic means, as defined in [section 1], to satisfy the requirements of this subsection (2).

(3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:

(a) personally; or

(b) by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both.

(4) An owner or operator charged with violating subsection (2) may not be convicted if:

(a) the arresting officer or another person authorized to access information from the online motor vehicle liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that provides proof of insurance valid at the time of arrest; or

(b) if the system under 61-6-157 is not available, the person produces in court or the office of the arresting officer proof of insurance valid at the time of arrest."

Section 10. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 33, chapter 15, and the provisions of Title 33, chapter 15, apply to [sections 1 through 8].

Section 11. Effective date. [This act] is effective January 1, 2016.

Section 12. Applicability. [This act] applies to insurance policies issued or renewed on or after January 1, 2016.

Approved April 30, 2015

CHAPTER NO. 370

[HB 119]

AN ACT GENERALLY REVISING INSURANCE LAWS; IMPLEMENTING ACCREDITATION STANDARDS AND MODEL ACTS DEVELOPED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING STANDARDS FOR RISK MANAGEMENT AND RETENTION, VALUATION, ENTERPRISE RISK STANDARDS FOR HOLDING COMPANY SYSTEMS, AND CERTAIN NONFORFEITURE PROVISIONS; CREATING GUIDELINES AND RELATED REQUIREMENTS FOR AN INSURER'S SELF-ASSESSMENT OF RISK AND SOLVENCY; ADOPTING PRINCIPLE-BASED VALUATION; ADOPTING A VALUATION MANUAL FOR RESERVES; APPLYING ACTUARIAL STANDARDS TO RESERVE REPORTING; APPLYING THE VALUATION MANUAL TO ACCIDENT AND HEALTH PLANS; PROVIDING FOR ENTERPRISE RISK REPORTING; GRANTING THE COMMISSIONER OF INSURANCE APPROVAL AUTHORITY OVER DIVESTITURES; ALLOWING FOR DISCLAIMERS OF AFFILIATION; EXTENDING CONFIDENTIALITY FOR VARIOUS REPORTS FILED WITH THE COMMISSIONER; EXPANDING PENALTIES FOR WITHHOLDING OF CERTAIN INFORMATION; CLARIFYING CREDIT FOR CEDING INSURERS OR REINSURERS; REVISING TERMS FOR RISK RETENTION GROUPS, INCLUDING CLARIFICATION OF INDEPENDENT DIRECTORS AND MATERIAL RELATIONSHIPS; EXPANDING NONFORFEITURE VALUATION OPTIONS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-2-521, 33-2-523, 33-2-525,

33-2-526, 33-2-527, 33-2-537, 33-2-1101, 33-2-1104, 33-2-1105, 33-2-1106, 33-2-1111, 33-2-1112, 33-2-1113, 33-2-1115, 33-2-1116, 33-2-1120, 33-2-1216, 33-2-1217, 33-2-1501, 33-11-103, 33-20-203, 33-20-208, AND 33-31-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 9] may be cited as the "Own Risk and Solvency Assessment Act".

Section 2. Purpose. The purpose of [sections 1 through 9] is to provide:

(1) requirements for maintaining a risk management framework and completing an own risk and solvency assessment; and

(2) guidance and instructions for filing an ORSA summary report with the commissioner.

Section 3. Definitions. For the purposes of [sections 1 through 9], the following definitions apply:

(1) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in 33-2-1101.

(2) "NAIC" means the national association of insurance commissioners.

(3) "ORSA guidance manual" means the current version of the own risk and solvency assessment guidance manual developed and adopted by the NAIC as of [the effective date of this act] or as subsequently adopted by rule by the commissioner. A change to the ORSA guidance manual is effective on January 1 following the calendar year in which the commissioner adopts the changed manual by rule.

(4) "ORSA summary report" means a confidential, high-level summary of an insurer's or insurance group's ORSA.

(5) "Own risk and solvency assessment" or "ORSA" means a confidential, internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by an insurer or insurance group of the material and relevant risks associated with the insurer or the insurance group's current business plan and of the sufficiency of the insurer's or insurance group's capital resources to support those risks.

(6) "Risk management framework" means a study of the elements used to assist an insurer or insurance group to identify, assess, monitor, manage, and report on material and relevant risk of the insurer or the insurance group.

Section 4. Risk management framework required. All Montana insurers and insurance groups shall maintain a risk management framework. This requirement is satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

Section 5. Own risk and solvency assessment required. Subject to the exemptions in [section 7], an insurer or an insurance group of which the insurer is a member shall conduct an own risk and solvency assessment consistent with a process comparable to the ORSA guidance manual. The own risk and solvency assessment must be conducted no less than annually and at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

Section 6. ORSA summary report. (1) No more than once a year, the commissioner may request and an insurer or its insurance group shall provide to the commissioner, as provided in subsection (2), an ORSA summary report or

any combination of reports that together contain the information described in the ORSA guidance manual as applicable to the insurer and the insurance group of which the insurer is a member.

(2) (a) If the insurer is a member of an insurance group, the insurer shall submit any report required under this section to the commissioner when the commissioner is the lead state regulator for that insurance group.

(b) If the insurer is not a member of an insurance group, the insurer shall submit any report required under this section to the commissioner.

(c) An insurer that is a member of an insurance group may voluntarily submit the report to a requesting insurance regulator who is not the lead state regulator for the insurer's insurance group.

(3) (a) The report must be prepared consistent with the ORSA guidance manual and subsection (3)(b). Documentation and supporting information must be maintained and made available for an examination or on request of the commissioner.

(b) The review of the ORSA summary report and any additional requests for information must be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

(4) (a) The report must include the signature of the chief risk officer of the insurer or insurance group or of another executive charged with overseeing the enterprise risk management process for the insurer or the insurance group.

(b) The signature of the chief risk officer or other executive charged with overseeing the enterprise risk management is an attestation that to the best of the officer's or executive's knowledge the insurer or insurance group applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the board of directors of the insurer or the insurance group or to the appropriate committee of the board of directors.

(5) An insurer may comply with this section by providing the most recent and substantially similar report provided by the insurer or another member of an insurance group of which the insurer is a member to the insurance regulator of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA guidance manual. A report in a language other than English must be accompanied by a translation of the report into English.

Section 7. ORSA exemptions — conditions — waiver — override. (1) Except as provided in subsection (5), an insurer is exempt from the requirements of [sections 1 through 9] if:

(a) (i) the insurer has an annual direct written and unaffiliated assumed premium of less than $500 million. This total includes international direct and assumed premiums. The total excludes premiums reinsured through the federal crop insurance corporation and the federal flood program.

(ii) the insurer's insurance group has annual direct written and unaffiliated assumed premiums of less than $1 billion. This total includes international direct and assumed premiums. The total excludes premiums reinsured through the federal crop insurance corporation and the federal flood program.

(b) the insurer provides the most recent and similar report provided by the insurer or another group member of an insurance group of which the insurer is a member to the insurance regulator of another state or to an insurance supervisor or insurance regulator of a foreign jurisdiction.

(2) If an insurer qualifies for exemption pursuant to subsection (1)(a)(i) but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (1)(a)(ii), the ORSA summary report must include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one ORSA summary report for any combination of insurers as long as each combination of reports includes every insurer within the insurance group.

(3) If an insurer does not qualify for exemption pursuant to (1)(a)(i) but the insurance group of which the insurer is a member qualifies for exemption pursuant to subsection (1)(a)(ii), the only required ORSA summary report is the report applicable to that insurer.

(4) (a) An insurer that does not qualify for exemption under this section may apply to the commissioner for a waiver from the requirements of [sections 1 through 9] based on unique circumstances.

(b) In deciding whether to grant an insurer's request for a waiver, the commissioner may consider the type and volume of business written, ownership, organizational structure, and any other factor the commissioner considers relevant to the insurer or to the insurance group of which the insurer is a member.

(c) If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner may coordinate with the lead state regulator and with the other domiciliary insurance regulators in considering whether to grant the insurer's request for a waiver.

(5) (a) The commissioner may override the exemptions provided under this section:

(i) based on unique circumstances, which may include the type and volume of business written, ownership, organizational structure, federal agency requests, or international supervisor requests;

(ii) if the insurer has risk-based capital that meets a company action level event as provided in 33-2-1904;

(iii) if the insurer is in hazardous financial condition as described in 33-2-1321; or

(iv) if the insurer exhibits the qualities of a troubled insurer as determined by the commissioner.

(b) If the commissioner determines that an override of the exemptions as provided in subsection (5)(a) is necessary, the commissioner may require an insurer to maintain a risk management framework, conduct an own risk and solvency assessment, and file an ORSA summary report.

(6) If an insurer qualifies for an exemption pursuant to subsection (1) but subsequently no longer qualifies for that exemption because of changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has 1 year following the year in which the threshold was exceeded to comply with the requirements of [sections 1 through 9].

Section 8. Confidentiality. (1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential by law and privileged, not admissible as evidence in any civil action, and not subject to subpoena,

discovery, the provisions of 2-6-102, or the Freedom of Information Act, 5 U.S.C. 552.

(2) The commissioner may use information in an ORSA summary report in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(3) The commissioner and any person who receives ORSA-related information while operating under the authority of the commissioner or with whom information is shared pursuant to an own risk and solvency assessment may not testify in any private civil action concerning the ORSA-developed information.

(4) To assist in the commissioner's regulatory duties, the commissioner:

(a) may, on request, share ORSA-related information, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including with members of any supervisory college, the NAIC, or third-party consultants designated by the commissioner. A person with whom the ORSA-related information is shared shall agree in writing to maintain the confidentiality and privileged status of the ORSA-related information and shall verify in writing that the recipient has legal authority to maintain confidentiality.

(b) may receive ORSA-related information, including otherwise confidential and privileged documents, materials, or other information that may include proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, supervisory college members, and the NAIC. Received information is confidential as provided in this section.

(c) shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of the information provided pursuant to an ORSA, consistent with this subsection (4).

(5) The written agreement required under subsection (4)(c) must:

(a) specify procedures and protocols regarding the confidentiality of the information, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers;

(b) provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the information and that the recipient has verified the legal authority to maintain confidentiality;

(c) specify that ownership of shared information remains with the commissioner. Use of the information by the NAIC or a third-party consultant is subject to the direction of the commissioner.

(d) prohibit the recipient from storing the shared information in a permanent database after any underlying analysis is completed;

(e) require prompt notice to be given to an insurer whose information in the possession of the recipient is subject to a request or subpoena to the recipient for disclosure or production;

(f) require the recipient to consent to intervention by an insurer in any judicial or administrative action in which the recipient may be required to disclose confidential information about the insurer that is received under an ORSA; and

(g) require the insurer's consent when entering into an agreement with a third-party consultant.

(6) The sharing of information pursuant to [sections 1 through 9] does not constitute a delegation of regulatory authority or rulemaking, and the commissioner remains solely responsible for the administration, execution, and enforcement of the provisions of [sections 1 through 9].

(7) Disclosure of information under this section to or from the commissioner does not constitute a waiver of any applicable privilege or claim of confidentiality related to the information obtained under [sections 1 through 9].

(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential by law and privileged, is not admissible in evidence in any private civil action, and is not subject to 2-6-102, subpoena, or discovery.

(9) For the purposes of this section, "information" means documents, materials, or other ORSA-related information, including the ORSA summary report, that is in the possession of or control of the commissioner or any other person under [sections 1 through 9].

Section 9. Sanctions. (1) Any insurer failing to timely file the ORSA summary report shall be fined no more than $500 for each day's delay, up to a maximum penalty of $25,000.

(2) The commissioner shall collect the fine and deposit the money in the state general fund.

Section 10. Short title. [Sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, and 33-2-537 may be cited as the "Standard Valuation Act".

Section 11. Definitions. As used in [this part], the following definitions apply unless the context clearly indicates otherwise:

(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions.

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare an actuarial opinion required by [this part].

(3) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks.

(4) "Insurer" means an entity that:

(a) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in Montana and has at least one of the named contracts in force or on claim; or

(b) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in Montana.

(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts.

(6) "NAIC" means the national association of insurance commissioners.

(7) (a) "Policyholder behavior" means any action taken by a policyholder, a contract holder, or any other person with the right to elect options, such as the action that a certificate holder may take under a policy or a contract subject to [this part]. The actions include but are not limited to allowing a policy or contract to lapse, making a premium payment or loan, or making benefit elections prescribed by the policy or contract. Other actions may be identified by rule.

(b) The term does not include events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer. A principle-based valuation must comply with the provisions of [section 13].

(9) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards and meets the requirements specified in the valuation manual.

(10) "Tail risk" means a risk that occurs either when the frequency of low-probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude.

(11) "Valuation manual" means the valuation manual adopted by the NAIC in accordance with its model law regarding standard valuation and adopted by the commissioner by rule.

Section 12. Valuation for policies. (1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under 33-2-521, except as provided in subsection (6) or (8) of this section.

(2) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(a) the valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members or three-fourths of the members voting, whichever is greater;

(b) the standard valuation law as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75% of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health, health, and fraternal annual statements;

(c) the standard valuation law as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: the 50 states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico; and

(d) the commissioner has adopted by rule the valuation manual.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual are effective on January 1 following the date when all of the following have occurred:

(a) the change in the valuation manual has been adopted by an affirmative vote representing:

(i) at least three-fourths of the members of the NAIC voting but not less than a majority of the total membership; and

(ii) members of the NAIC representing jurisdictions totaling more than 75% of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subsection (3)(a)(i): life, accident and health, health, and fraternal annual statements; and

(b) the change to the valuation manual is adopted by the commissioner by rule.

(4) The valuation manual adopted by the commissioner must specify all of the following:

(a) minimum valuation standards for and definitions of the policies or contracts subject to 33-2-521(2). The minimum valuation standards include:

(i) the commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to [section 13];

(ii) the commissioner's annuity reserve valuation method for annuity contracts subject to 33-2-521(2); and

(iii) minimum reserves for all other policies or contracts subject to [section 13(2)].

(b) a description of which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in [section 13(1)] and the minimum valuation standards consistent with those requirements;

(c) for policies and contracts subject to a principle-based valuation:

(i) requirements for the format of reports to the commissioner under [section 13(3)(c)], which must include information necessary to determine if the valuation is appropriate and in compliance with [this part];

(ii) prescribed assumptions for risks over which the company does not have significant control or influence; and

(iii) procedures for corporate governance and oversight of the actuarial function as well as a process for appropriate waiver or modification of the corporate governance procedures.

(d) for policies not subject to a principle-based valuation under [section 13], the minimum valuation standard must either:

(i) be consistent with the minimum standard of valuation prior to the operative date of the valuation manual as determined in subsections (1) and (2) or as amended as provided in subsection (3); or

(ii) develop reserves that quantify the benefits and guarantees as well as the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring; and

(e) other components in the valuation manual that the commissioner considers necessary for the smooth operation of policies or contracts under [this part]. These may include but are not limited to reserve methodologies, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memoranda, transition rules, and internal controls.

(5) The commissioner shall specify by rule the data and form of the data required under [section 14] and to whom the data must be submitted as well as any other requirements including data analysis and reporting of analysis.

(6) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with [this part], the company shall, with respect to the requirements named as out of compliance with [this part], comply with minimum standard valuations prescribed by the commissioner by rule.

(7) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and comment on the appropriateness of any reserve assumption or method used by the company or to review and comment on a company's compliance with any requirement in [this part]. The commissioner may rely on the opinion, regarding provisions contained in [this part], of a qualified actuary engaged by the insurance regulator of another state, district, or territory of the United States. As used in this subsection, the term "engage" includes employment and contracting.

(8) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or of [this part].

(9) A company shall adjust its reserves as required by the commissioner.

(10) The commissioner may take disciplinary action for violations of this section as provided in 33-1-317.

Section 13. Principle-based valuation. (1) A company domiciled in Montana shall establish reserves using a principle-based valuation that meets the conditions for policies or contracts in this section and as specified in the valuation manual.

(2) The principle-based valuation at a minimum must:

(a) quantify the benefits and guarantees as well as the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. The principle-based valuation method must reflect conditions appropriately adverse to quantify the tail risk for policies and contracts with significant tail risk.

(b) incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with but not necessarily identical to those used within the company's overall risk assessment process. This process must recognize potential differences in financial reporting structures and any prescribed assumptions or methods.

(c) incorporate assumptions derived:

(i) as prescribed in the valuation manual; or

(ii) if not prescribed in the valuation manual, using:

(A) the company's available experience to the extent the experience is relevant and statistically credible; or

(B) other relevant and statistically credible experience whenever the company's own data is not available, relevant, or statistically credible; and

(d) provide margins for uncertainty, including adverse deviation and estimation error to the extent that the greater the uncertainty, the larger the margin and resulting reserve.

(3) A company using principle-based valuation for one or more policies or contracts subject to this section and as specified in the valuation manual shall:

(a) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(b) provide to the commissioner and its board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. These internal controls must be designed to assure that all material risks inherent in the liabilities and associated assets subject to the principle-based valuation are included in the valuation and are performed in

accordance with the valuation manual. The certification must be based on controls in place as of the end of the preceding calendar year.

(c) develop a principle-based valuation report that complies with standards prescribed in the valuation manual. This report must be filed with the commissioner upon the commissioner's request. A report under this subsection (3)(c) is required after the commissioner has adopted rules as provided in [section 16].

(4) A principle-based valuation may include a prescribed formulaic reserve component.

Section 14. Experience reporting. A company shall submit mortality, morbidity, policyholder behavior, expense experience, and other data as prescribed by the commissioner and in accordance with the valuation manual.

Section 15. Confidentiality — definitions. (1) Except as provided in subsection (9), a company's confidential information is confidential and privileged and is not subject to subpoena, discovery, or public information requests under 2-6-102 or admissible in evidence in any private civil action.

(2) The commissioner may use the confidential information to further any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(3) Neither the commissioner nor any person who receives confidential information while acting under the authority of the commissioner may be required or permitted to testify in any private civil action concerning a company's confidential information.

(4) Subject to the conditions in subsection (4)(c), the commissioner may, to assist in the performance of the commissioner's duties, share:

(a) confidential information with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries upon agreement that the confidential information will be kept confidential; and

(b) only confidential information as defined in subsections (10)(a)(i)(A) and (10)(a)(i)(D) with:

(i) the actuarial board for counseling and discipline or its successor upon a request that states the confidential information is required for use in professional disciplinary proceedings; and

(ii) state, federal, and international law enforcement officials; and

(c) the information under this subsection (4) only if the recipient of the information has the legal authority to agree, and the recipient has agreed, to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(5) (a) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, and other information, from:

(i) the NAIC and its affiliates and subsidiaries;

(ii) regulatory or law enforcement officials of other foreign or domestic jurisdictions; and

(iii) the actuarial board for counseling and discipline or its successor.

(b) The commissioner shall maintain as confidential or privileged any documents, materials, data, or other information received from the entities listed in subsection (5)(a) with notice or the understanding that the documents, materials, data, or other information is confidential or privileged under the laws

of the jurisdiction that is the source of the documents, materials, data, or other information.

(6) The commissioner may enter into agreements governing the sharing and use of confidential information consistent with this section.

(7) A disclosure to the commissioner under this section or a sharing of confidential information authorized in this section does not constitute a waiver of any applicable privilege or claim of confidentiality for the confidential information.

(8) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section must be recognized and enforced in any proceeding in this state, including any court proceedings.

(9) The confidential information defined in subsections (10)(a)(i)(A) and (10)(a)(i)(D) may:

(a) be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under 33-2-521 or a principle-based valuation report developed pursuant to [section 13(3)(c)] by reason of an action required by [sections 10 through 16];

(b) be otherwise released by the commissioner with the written consent of the company; or

(c) no longer be confidential for all portions after any portion of a memorandum in support of an opinion submitted under 33-2-521 or a principle-based valuation report developed under [section 13(3)(c)] is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media.

(10) As used in this section, the following definitions apply:

(a) (i) "Confidential information" means:

(A) a memorandum in support of an opinion submitted under 33-2-521 and any other documents, materials, and other information, including but not limited to all working papers or copies of the working papers that were created, produced, or obtained by the commissioner or by any other person in connection with the memorandum or disclosed to the commissioner or to any other person in connection with the memorandum;

(B) subject to the provisions of subsection (10)(a)(ii)(A), all documents, materials, and other information in the course of an examination made under [section 12(7)], including but not limited to all working papers and copies of the working papers that were created, produced, or obtained by the commissioner or by any other person in connection with the examination or disclosed to the commissioner or to any other person in connection with the examination;

(C) any reports, documents, materials, or other information developed by a company in support of or in connection with an annual certification by the company under [section 13(3)(b)] evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including but not limited to working papers and copies of the working papers created, produced, or obtained by the commissioner or by any other person in connection with the reports, documents, materials, and other information disclosed to the commissioner or to any other person in connection with those reports, documents, materials, and other information;

(D) any principle-based valuation report developed under [section 13(3)(c)] and any other documents, materials, and other information, including but not limited to all working papers and copies of working papers created, produced, or obtained by the commissioner or any other person in connection with the principle-based valuation report or disclosed to the commissioner or to any other person in connection with the report; and

(E) any experience data and any other documents, materials, data, and other information, including but not limited to all working papers and copies of working papers created or produced in connection with the experience data. The information under this subsection (10)(a)(i)(E) includes any potential company-identifying or personally identifiable information that is provided to or obtained by the commissioner or any other person in connection with the documents, materials, data, and other information described in this subsection (10)(a)(i)(E), including but not limited to working papers and copies of working papers created, produced, or obtained by the commissioner or any other person or disclosed to the commissioner or to any other person.

(ii) The term does not include:

(A) an examination report or other material prepared in connection with an examination made under [section 12(7)] to the extent that the examination report or other material prepared in connection with the examination would not have been held private and confidential if prepared under 33-1-401; or

(B) any portion of confidential information that has been cited by the insurer in its marketing, provided to any governmental agency other than a state insurance department, released by the insurer to the news media, or otherwise made public by the insurer in any way.

(b) "Experience data" means any documents, materials, data, and other information submitted by a company under [section 14].

(c) "NAIC" means the national association of insurance commissioners and its employees, agents, consultants, and contractors.

(d) "Regulatory agency" includes the agency's employees, agents, consultants, and contractors.

Section 16. Rulemaking. The commissioner shall adopt rules necessary to implement the provisions of [this part], including but not limited to adopting the valuation manual.

Section 17. Section 33-2-521, MCA, is amended to read:

"33-2-521. Standard valuation of reserve liabilities law — ~~life insurance~~. (1) The commissioner shall annually value or cause to be valued the reserve liabilities (reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state ~~and may certify the amount of any reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or other) used in the calculation of reserves~~ *issued on or before the operative date of the valuation manual*. In calculating the reserves *under this subsection*, the commissioner may use group methods and approximate averages for fractions of a year or otherwise.

(2) The commissioner shall annually value or cause to be valued the reserve liabilities for all outstanding life insurance contracts, annuities, and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued after the operative date of the valuation manual in accordance with the valuation manual.

~~(2)~~*(3)* In lieu of the valuation of the reserves required in this section of any foreign or alien insurer, the commissioner may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in ~~this section and if the official of the other state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction~~ *[this part]*.

~~(3)~~*(4)* Any insurer that has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum ~~standard~~ *standards* provided in ~~this section~~ *[this part]* may, with the approval of the commissioner, adopt any lower standard of valuation but not lower than the minimum in this section. For the purposes of this section, the holding of additional reserves previously determined by ~~a qualified~~ *an appointed* actuary to be necessary to render the opinion required in ~~subsection (4)~~ *subsections (5) and (6)* may not be considered to be the adoption of a higher standard of valuation.

~~(4)~~*(5)* (a) Each life insurer doing business in this state *prior to the operative date of the valuation manual* shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items considered necessary to its scope.

(b) Each life insurer, except as exempted by or pursuant to regulation, shall also annually include in the opinion required by subsection ~~(4)(a)~~ *(5)(a)* an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule~~, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts,~~ make adequate provision for the insurer's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. *In developing the opinion, the qualified actuary shall consider the assets held by the insurer with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts.*

(c) The commissioner may provide by rule for a transition period for establishing any higher reserves that the qualified actuary may consider necessary in order to render the opinion required by this subsection ~~(4)~~ *(5)*.

(d) Each opinion required by this subsection ~~(4)~~ *(5)* must be governed by the following provisions:

(i) A memorandum, in form and substance acceptable to the commissioner as specified by rule, must be prepared to support each actuarial opinion.

(ii) If the insurer fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or if the commissioner determines that the supporting memorandum provided by the insurer fails to

meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and to prepare any supporting memorandum as is required by the commissioner.

(iii) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1996.

(iv) The opinion must apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

(v) The opinion must be based on standards adopted from time to time by the actuarial standards board and on additional standards as the commissioner may prescribe by rule.

(vi) In the case of an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(vii) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurer and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(viii) Disciplinary action by the commissioner against the insurer or the qualified actuary must be defined in rules by the commissioner.

~~(ix) Any memorandum in support of the opinion and any other material provided by the insurer to the commissioner in connection with those items must be kept confidential by the commissioner, may not be made public, and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this subsection (4) or by rules promulgated under this subsection (4). However, the memorandum or other material may otherwise be released by the commissioner:~~

~~(A) with the written consent of the insurer; or~~

~~(B) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the insurer in its marketing, is cited before any governmental agency other than a state insurance department, or is released by the insurer to the news media, all portions of the confidential memorandum are no longer confidential.~~

~~(5) For purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in the academy's rules.~~

(6) (a) After the operative date of the valuation manual, each life insurer doing business in this state shall annually submit the opinion of a qualified actuary regarding whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are:

(i) computed appropriately;

(ii) based on assumptions that satisfy contractual provisions;

(iii) consistent with prior reported amounts; and

(iv) in compliance with the applicable laws of this state.

(b) A qualified actuary shall prepare a memorandum in support of each actuarial opinion under this subsection (6). The memorandum must be in the form and substance specified in the valuation manual and as provided by the commissioner.

(c) The opinion under this subsection (6):

(i) must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the valuation manual;

(ii) must apply to all policies and contracts subject to this subsection (6) and to other actuarial liabilities identified in the valuation manual; and

(iii) must be based on the actuarial standards board's standards and any additional standards prescribed in the valuation manual.

(d) If the insurer fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or if the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(e) For an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this state.

(f) (i) Except as provided in subsection (6)(f)(ii), the appointed actuary is not liable for damages to any person other than the insurer and the commissioner for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(ii) The provisions of subsection (6)(f)(i) do not apply in cases of fraud or willful misconduct.

(g) The commissioner shall define by rule any disciplinary action that may be taken by the commissioner against the insurer or the appointed actuary."

Section 18. Section 33-2-523, MCA, is amended to read:

"33-2-523. Contracts on or after operative date of 33-20-213 *and prior to operative date of valuation manual* — valuation. (1) This section applies to only those policies and contracts issued *prior to the date of adoption of the valuation manual, which is the operative date for the valuation manual, and* on or after the operative date of 33-20-213, except as otherwise provided in 33-2-524 for group annuity and pure endowment contracts issued prior to that date.

(2) Except as otherwise provided in 33-2-524, 33-2-525, and 33-2-537(2), the minimum standard for the valuation of all the policies and contracts issued prior to October 1, 1995, is the standard provided by the laws in effect prior to October 1, 1995. Except as otherwise provided in 33-2-524, 33-2-525, and 33-2-537(2), the minimum standard for the valuation of all policies and contracts *issued prior to the operative date of the valuation manual, as provided in subsection (1),* is the commissioner's reserve valuation methods defined in 33-2-525, 33-2-526(3) and

(4), and 33-2-537, 5% interest for group annuity and pure endowment contracts, and 3 1/2% interest for all other policies and contracts or, in the case of life insurance policies and contracts other than annuity and pure endowment contracts issued on or after March 17, 1973, 4% interest for all other policies issued prior to July 1, 1979, 5 1/2% interest for single-premium life insurance policies, and 4 1/2% interest for all other policies issued on or after July 1, 1979, and the following tables:

(a) for all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies:

(i) the 1941 commissioners standard ordinary mortality table for policies issued prior to the operative date of 33-20-206, as amended, and the 1958 commissioners standard ordinary mortality table for policies issued on or after that operative date but prior to January 1, 1989, except that for any category of the policies issued on female risks, modified net premiums and present values, referred to in 33-2-525 and 33-2-526, may be calculated, at the option of the insurer, with the approval of the commissioner, according to an age younger than the actual age of the insured;

(ii) for policies issued *prior to the operative date of the valuation manual but* on or after January 1, 1989:

(A) the 1980 commissioners standard ordinary mortality table;

(B) at the election of the insurer for any one or more specified policies of life insurance, the 1980 commissioners standard ordinary mortality table with 10-year select mortality factors; or

(C) any ordinary mortality table adopted after 2001 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for policies;

(iii) for policies issued on or after January 1, 2005, and before January 1, 2009, at the election of the insurer for any one or more specified policies of life insurance, the 2001 commissioners standard ordinary mortality table; or

(iv) for policies issued *prior to the operative date of the valuation manual but* on or after January 1, 2009, the 2001 commissioners standard ordinary mortality table;

(b) for all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the 1941 standard industrial mortality table for policies issued prior to the operative date of 33-20-207 and, for policies issued on or after that operative date, the 1961 commissioners standard industrial mortality table or any industrial mortality table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for the policies;

(c) for individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner;

(d) for group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the group annuity mortality table for 1951, any modification of the table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

(e) (i) for total and permanent disability benefits in or supplementary to ordinary policies or contracts:

(A) for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners that are approved by the commissioner by rule for use in determining the minimum standard of valuation for the policies;

(B) for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either the tables or, at the option of the insurer, the class 3 disability table (1926); and

(C) for policies issued prior to January 1, 1961, the class 3 disability table (1926);

(ii) any table must, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(f) (i) for accidental death benefits in or supplementary to policies:

(A) for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for the policies;

(B) for policies issued on or after January 1, 1961, and prior to January 1, 1966, a table referenced in subsection (2)(f)(i)(A) or, at the option of the insurer, the intercompany double indemnity mortality table; and

(C) for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table;

(ii) either table must be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for group life insurance, life insurance issued on the substandard basis, and other special benefits, the tables approved by the commissioner."

Section 19. Section 33-2-525, MCA, is amended to read:

"33-2-525. Commissioner's reserve valuation method. (1) Except as otherwise provided in subsection (4) of this section, 33-2-526(3) and (4), and 33-2-537(2), reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, must be the excess, if any, of the present value, at the date of valuation, of future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums. The modified net premiums for any policy must be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all modified net premiums must be equal to the sum of the then present value of the benefits provided for by the policy and the excess of subsection (1)(a) over subsection (1)(b), as follows:

(a) a net level annual premium equal to the present value, at the date of issue, of benefits provided for after the first policy year, divided by the present value, at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium may not exceed the net level annual

premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of the policy.

(b) a net 1-year term premium for benefits provided for in the first policy year.

(2) (a) For each life insurance policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year, for which a comparable additional benefit is not provided in the first year for the excess, and that provides an endowment benefit, a cash surrender value, or a combination of both in an amount greater than the excess premium, the reserve according to the commissioner's reserve valuation method, as of any policy anniversary occurring on or before the assumed ending date as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, is, except as otherwise provided in 33-2-526, the greater of the reserve as of the policy anniversary calculated as described in subsection (1) or the reserve as of the policy anniversary calculated as described in subsection (1) with the following exceptions:

(i) the value defined in subsection (1)(a) is reduced by 15% of the amount of the excess first-year premium;

(ii) all present values of benefits and premiums are determined without reference to premiums or benefits provided for in the policy after the assumed ending date;

(iii) the policy is assumed to mature on the assumed ending date as an endowment; and

(iv) the cash surrender value provided on the assumed ending date is considered an endowment benefit.

(b) In making the comparisons in subsection (2)(a), the mortality and interest bases stated in 33-2-523 and 33-2-527 must be used.

(3) Reserves according to the commissioner's reserve valuation method for the following must be calculated by a method consistent with the principles of this section, except that any extra premiums charged because of impairments or special hazards must be disregarded in the determination of modified net premiums:

(a) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended;

(c) disability and accidental death benefits in all policies and contracts; and

(d) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

(4) (a) Subsection (4)(b) applies to any annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual

retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended.

(b) Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, must be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of the contract that become payable prior to the end of the respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate or rates specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

(c) The commissioner's reserve valuation method provided by this section is subject to the provisions of the valuation manual as adopted by the commissioner."

Section 20. Section 33-2-526, MCA, is amended to read:

"33-2-526. Limits — options — minimum reserves. (1) *(a)* An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits issued on or after October 1, 1995, *and prior to adoption of the valuation manual by the commissioner by rule* may not be less than the aggregate reserves calculated in accordance with the methods set forth in 33-2-525, 33-2-537(2), subsection (3) of this section, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(b) After the operative date of the valuation manual, the reserve valuation methods determined by the commissioner under 33-2-525(4)(c) must be used in conjunction with the provisions of this section.

(2) Reserves for all policies and contracts issued prior to October 1, 1995, may be calculated, at the option of the insurer, according to standards that produce greater aggregate reserves for those policies and contracts than the minimum reserves required by the laws in effect immediately prior to October 1, 1995. Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after October 1, 1995, may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for a category than those calculated according to the minimum standard provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, may not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for a category.

(3) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve on the policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract must be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract or the reserve calculated by the method actually used for the policy or contract but using the minimum standards of mortality and rate of interest and replacing the

valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in 33-2-524 and 33-2-527.

(4) For every life insurance policy issued after December 30, 1986, for which the gross premium in the first policy year exceeds that of the second year, for which a comparable additional benefit is not provided in the first year for an excess, and that provides an endowment benefit, a cash surrender value, or a combination of both in an amount greater than the excess premium, subsections (1) through (3) of this section must be applied as if the method actually used in calculating the reserve for the policy were the method described in 33-2-525(1). The minimum reserve at each policy anniversary of the policy must be the greater of the minimum reserve calculated in accordance with 33-2-525 and the minimum reserve calculated in accordance with this section."

Section 21. Section 33-2-527, MCA, is amended to read:

"33-2-527. Interest rates — determination of minimum standard valuation. (1) ~~The~~ *For policies issued prior to the operative date of the valuation manual, the* calendar year statutory valuation interest rates as established in this section must be used in determining the minimum standard for the valuation of:

(a) all life insurance policies issued in a particular calendar year on or after January 1, 1989;

(b) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984;

(c) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts.

(2) Except as provided in subsection (3), the calendar year statutory valuation interest rates are determined as follows and the results rounded to the nearer 1/4 of 1%, when R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate established in 33-2-529, and W is the weighting factor established in 33-2-528:

(a) for life insurance:

Interest rate = .03 + W(R1 - .03) + (W/2)(R2 - .09);

(b) for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

Interest rate = .03 + W(R - .03);

(c) for other annuities with:

(i) cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subsection (2)(b), the formula for life insurance stated in subsection (2)(a) applies to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single-premium immediate annuities stated in subsection (2)(b) applies to annuities and guaranteed interest contracts with guarantee durations of 10 years or less;

(ii) no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single-premium immediate annuities stated in subsection (2)(b) applies; and

(iii) cash settlement options and guaranteed interest contracts with cash settlement options valued on a change-in-fund basis, the formula for single-premium immediate annuities stated in subsection (2)(b) applies.

(3) If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 1/2 of 1%, the calendar year statutory valuation interest rate for such life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of this subsection, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year must be determined for 1980 (using the reference interest rate defined for 1979) and must be determined for each subsequent calendar year regardless of when 33-20-208 becomes operative."

Section 22. Section 33-2-537, MCA, is amended to read:

"33-2-537. Reserve calculation — indeterminate premium plans — minimum standards for disability plans *and accident and health plans*. (1) In the case of a plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of a plan of life insurance or annuity that is of a nature that the minimum reserves cannot be determined by the methods described in 33-2-525 and 33-2-526(3), the reserves that are held under the plan must:

(a) be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(b) be computed by a method that is consistent with the principles of 33-2-521 through 33-2-529.

(2) The commissioner may promulgate a rule containing the minimum standards applicable to the valuation of disability plans *issued prior to the operative date of the valuation manual. For accident and health insurance contracts issued on or after the operative date of the valuation manual and after the applicable effective date provided in [section 12], the minimum standard of valuation prescribed by the valuation manual must be used*."

Section 23. Section 33-2-1101, MCA, is amended to read:

"33-2-1101. Definitions. As used in this part, the following ~~terms shall have the respective meanings hereinafter set forth~~ *definitions apply*~~,~~ unless the context ~~shall~~ *requires* otherwise ~~require~~:

(1) An "affiliate" of or person "affiliated" with a specific person is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person specified.

(2) ~~The term "control"~~ *"Control"*~~(~~*,* including the terms "controlling", "controlled by", and "under common control with"~~)~~*,* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person~~, whether~~. *This power may be evidenced* through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control ~~shall be~~ *is* presumed to exist if any person~~,~~ directly or indirectly~~,~~ owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by 33-2-1112 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice

and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole. The term includes but is not limited to anything that would cause the insurer's risk-based capital to fall into a company action level, as provided in 33-2-1904, or that would cause the insurer to be in hazardous financial condition as determined by the commissioner pursuant to 33-2-1321.

~~(3)~~*(4)* ~~An "insurance~~ *"Insurance* holding company system" ~~consists of~~ *means* two or more affiliated persons, one or more of which is an insurer.

~~(4)~~*(5)* ~~The term "insurer" shall have~~ *"Insurer" has* the ~~same~~ meaning ~~as set forth~~ *provided* in 33-1-201, except that ~~it shall~~ *the term does* not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~(5)~~*(6) (a)* ~~A "person" is~~ *"Person" means* an individual, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert ~~but shall~~.

(b) The term does not include any securities broker performing no more than the usual and customary broker's function.

~~(6)~~*(7)* A "securityholder" of a specified person is one who owns any security of ~~such~~ *that* person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~(7)~~*(8)* A "subsidiary" of a specified person is an affiliate controlled by ~~such~~ *that* person directly or indirectly through one or more intermediaries.

~~(8)~~*(9)* ~~The term "voting~~ *"Voting* security" ~~shall include~~ *means* any security convertible into or evidencing a right to acquire a voting security."

Section 24. Section 33-2-1104, MCA, is amended to read:

"33-2-1104. Acquisition *or divestiture* of control of or merger with domestic insurer — filing requisites. (1) *(a)* A person other than the issuer may not make a tender offer for or a request or invitation for tenders of or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation of the transaction, the person would, directly or indirectly or by conversion or by exercise of any right to acquire, be in control of the insurer.

(b) A person may not enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any offer, request, or invitation is made or any agreement is entered into or prior to the acquisition of the securities if an offer or agreement is not involved, the person has filed with the commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a statement *as provided in subsection (3)* containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner prescribed in this section. ~~For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the~~

~~other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.~~

(2) (a) A controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer in any manner shall file for approval a confidential notice of its proposed divestiture at least 30 days prior to the cessation of control.

(b) The information in the notice must remain confidential until the conclusion of the transaction unless the commissioner, at the commissioner's discretion, determines confidential treatment will interfere with enforcement of this section.

(c) Subsections (2)(a) and (2)(b) do not apply to persons filing a statement under subsection (1).

~~(2)~~*(3)* The statement to be filed with the commissioner must be made under oath or affirmation and must contain the following ~~information~~:

(a) the name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) is to be effected, who is called the "acquiring party":

(i) if the person is an individual, the principal occupation and all offices and positions held during the past 5 years and any conviction of crimes other than minor traffic violations during the past 10 years;

(ii) if the person is not an individual:

(A) a report of the nature of its business operations during the past 5 years or for a lesser period that the person and any predecessors have been in existence;

(B) an informative description of the business intended to be done by the person and the person's subsidiaries; and

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person or who perform or will perform functions appropriate to the positions. The list must include for each individual the information required by subsection ~~(2)(a)(i)~~ *(3)(a)(i)*.

(b) the source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any purpose, and the identity of persons furnishing the consideration, provided that when a source of consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential if the person filing the statement requests;

(c) fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each acquiring party, or for a lesser period that the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement;

(d) any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(e) the number of shares of any security referred to in subsection (1) that each acquiring party proposes to acquire and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) and a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in subsection (1) that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(h) a description of the purchase of any security referred to in subsection (1) by an acquiring party during the 12 calendar months preceding the filing of the statement, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid for the security;

(i) a description of any recommendations to purchase any security referred to in subsection (1) during the 12 calendar months preceding the filing of the statement made by any acquiring party or by anyone based upon interviews or at the suggestion of the acquiring party;

(j) copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) and, if distributed, of additional soliciting material relating to the offers or agreements;

(k) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (1) for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to the solicitation;

(l) an agreement by which the person required to file the statement referred to in subsection (1) agrees to provide the annual enterprise risk report for as long as control exists;

(m) an acknowledgment by the person required to file the statement referred to in subsection (1) that the person and all affiliates within its control in the insurance holding company system agree to provide information to the commissioner upon request if the commissioner determines the information is necessary to evaluate enterprise risk to the insurer; and

~~(1)~~*(n)* additional information that the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

~~(3)~~*(4)* If the person required to file the statement referred to in subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by subsection ~~(2)~~ *(3)* must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If any partner, member, or person is a corporation or the person required to file the statement referred to in subsection (1) is a corporation, the commissioner may require that the information required by subsection ~~(2)~~ *(3)* be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

~~(4)~~*(5)* If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment ~~setting forth~~ *describing* the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within 2 business days after the person learns of the change. The insurer shall send the amendment to its shareholders.

~~(5)~~*(6)* If any offer, request, invitation, agreement, or acquisition referred to in subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) may use the documents in furnishing the information called for by that statement.

(7) As used in this section:

(a) "domestic insurer" includes any person controlling a domestic insurer unless the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in a business other than the business of insurance;

(b) "person" does not include a securities broker holding, in the usual and customary broker's function, less than 20% of the voting securities of an insurance company or of any person who controls an insurance company."

Section 25. Section 33-2-1105, MCA, is amended to read:

"33-2-1105. Approval by commissioner — hearings — notice. (1) The commissioner shall approve any merger or other acquisition *or divestiture* of control referred to in ~~33-2-1104(1)~~ *33-2-1104* unless, after a public hearing, the commissioner finds that:

(a) after the change of control*,* the domestic insurer referred to in ~~33-2-1104(1)~~ *33-2-1104* would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which ~~it~~ *the domestic insurer* is presently licensed;

(b) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) the financial condition of any acquiring party might jeopardize the financial stability of the insurer or prejudice the interest of ~~its~~ *the insurer's* policyholders or the interests of any remaining securityholders who are unaffiliated with the acquiring party;

(d) the terms of the offer, request, invitation, agreement, or acquisition referred to in ~~33-2-1104(1)~~ *33-2-1104* are unfair and unreasonable to the securityholders of the insurer;

(e) the plans or proposals that the acquiring party has to liquidate the insurer, to sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(f) the competence, experience, and integrity of those persons who would control the operation of the insurer are of the nature that ~~it~~ *the change in control* would not be in the interest of policyholders of the insurer and of the public ~~to permit the merger or other acquisition of control~~.

(2) The public hearing referred to in subsection (1) must be held within 30 days after the statement required by 33-2-1104(1) is filed, and at least 20 days'

notice of the hearing must be given by the commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to other persons as may be designated by the commissioner. The insurer shall give notice to its securityholders. The commissioner shall make a determination within 30 days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected has the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and to conduct discovery proceedings in the same manner that is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days prior to the commencement of the public hearing.

(3) All statements, amendments, or other material filed pursuant to 33-2-1104(1) through ~~(4)~~ *(5)* and all notices of public hearings held pursuant to subsection (1) of this section must be mailed by the insurer to its shareholders within 5 business days after the insurer has received the statements, amendments, other material, or notices. The expenses of mailing must be borne by the person making the filing. As security for the payment of the expenses, the person shall file with the commissioner an acceptable bond or other deposit in an amount to be determined by the commissioner.

(4) The commissioner may retain at the *expense of the* acquiring ~~party's expense~~ *or divesting party* any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control."

Section 26. Section 33-2-1106, MCA, is amended to read:

"33-2-1106. Exemptions — violations — jurisdiction. (1) The provisions of 33-2-1104, 33-2-1105, and this section do not apply to an offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from those sections as:

(a) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer; or

(b) otherwise not comprehended within the purposes of 33-2-1104 and 33-2-1105.

(2) The following are violations of 33-2-1104, 33-2-1105, and this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to 33-2-1104(1) through ~~(4)~~ *(5)*;

(b) the effectuation or any attempt to effectuate an acquisition of control of*,* *divestiture of,* or merger with a domestic insurer unless the commissioner has given approval.

(3) The courts of this state are vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under 33-2-1104 and over all actions involving the person arising out of violations of 33-2-1104, 33-2-1105, and this section~~, and each~~. *Each* person is considered to have performed acts equivalent to and constituting an appointment ~~by the person~~ of the commissioner to be the person's attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all lawful process must be served on the commissioner and transmitted by certified mail by the commissioner to the person at the person's last-known address."

Section 27. Section 33-2-1111, MCA, is amended to read:

"33-2-1111. Registration of insurers — requisites — termination. (1) *(a)* An insurer authorized to do business in this state that is a member of an insurance holding company system shall register with the commissioner, except that a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section is not required to register.

(b) Any insurer subject to registration under this section shall register within 15 days after becoming subject to registration, unless the commissioner for good cause extends the time for registration.

(c) The commissioner may require any authorized insurer that is a member of a holding company system that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority in the jurisdiction where the company is domiciled.

(2) An insurer subject to registration shall file with the commissioner, on or before April 30 each year, a registration statement on a form provided by the commissioner that must contain current information about:

(a) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) the identity of every member of the insurance holding company system;

(c) existing relationships, transactions currently outstanding between the insurer and its affiliates, and the following agreements that are in force:

(i) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales, or exchanges of assets;

(iii) transactions not in the ordinary course of business;

(iv) guaranties or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) management and service contracts and cost-sharing arrangements;

(vi) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(d) a pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate for a loan made to a member of the insurance holding company system;

(e) all matters concerning transactions between registered insurers and any affiliates as may be included from time to time in registration forms adopted or approved by the commissioner.

(3) A registration statement must contain a summary outlining each item in the current registration statement that represents a change from the prior registration statement.

(4) Information need not be disclosed on the registration statement filed pursuant to subsection (2) if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments involving

1/2 of 1% or less of an insurer's admitted assets as of the prior December 31 are not material for purposes of this section.

(5) A person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with Title 33, chapter 2, part 11.

(6) Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which ~~it~~ *the registered insurer* learns of each change or addition.

(7) The ultimate controlling person of every insurer subject to registration under this section shall also file an annual enterprise risk report. The report must identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer to the best of the controlling person's knowledge and belief. The report must be filed with the insurance regulator in the state in which the insurance holding company system is domiciled, as determined by the procedures within the financial analysis handbook adopted by the NAIC.

~~(7)~~*(8)* The commissioner shall terminate the registration of any insurer that demonstrates that ~~it~~ *the insurer* no longer is a member of an insurance holding company system.

~~(8)~~*(9)* The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

~~(9)~~*(10)* The commissioner may allow an insurer that is authorized to do business in this state and that is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (1) and to file all information and material required to be filed under this section."

Section 28. Section 33-2-1112, MCA, is amended to read:

"33-2-1112. Exemptions — disclaimer — violations. (1) The provisions of 33-2-1111 and this section ~~shall~~ *do* not apply to any insurer, information, or transaction ~~if and~~ to the extent that the commissioner by rule or order ~~shall exempt the same~~ *has exempted that insurer, information, or transaction* from the provisions of 33-2-1111 and this section.

(2) *(a)* Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer, or ~~such~~ a disclaimer may be filed by ~~such~~ *an* insurer or any member of an insurance holding company system. The disclaimer ~~shall~~ *must* fully disclose all material relationships and bases for affiliation between ~~such~~ *the* person and ~~such~~ *the* insurer *that is the object of the disclaimer* as well as the basis for disclaiming ~~such~~ *the* affiliation. ~~After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under 33-2-1111 and this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.~~

(b) The commissioner shall approve or deny a disclaimer within 30 days of filing. If the commissioner denies a disclaimer under this section, the

disclaiming party may request a hearing, which must be granted. The disclaiming party is not required to register under this section if the commissioner approves the disclaimer.

(3) The failure to file a registration statement*, any summary of the registration statement, an enterprise risk report,* or any amendment ~~thereto~~ *to the registration statement or enterprise risk request, as* required by 33-2-1111 and this section, within the time specified for ~~such~~ filing ~~shall be~~ *is* a violation of 33-2-1111 and this section."

Section 29. Section 33-2-1113, MCA, is amended to read:

"33-2-1113. Transactions with affiliates — standards. (1) Material transactions by registered insurers with their affiliates are subject to the following standards:

(a) The terms must be fair and reasonable.

(b) Charges or fees for services performed must be reasonable.

(c) Expenses incurred and payments received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(d) The books, accounts, and records of each party must clearly and accurately disclose the precise nature and details of the transactions, including any accounting information necessary to support the reasonableness of the charges or fees to the respective parties.

(e) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) (a) The following transactions involving a domestic insurer and a person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into a transaction and the commissioner has not disapproved ~~it~~ *the transaction* within at least 30 days prior to the transaction, or a shorter period as the commissioner may permit:

(i) sales, purchases, exchanges, loans or extensions of credit, guaranties, or investments if, as of the prior December 31, the transactions are equal to or exceed:

(A) with respect to insurers other than life insurers, the lesser of 3% of the insurer's admitted assets or 25% of its surplus as regards policyholders; and

(B) with respect to life insurers, 3% of the insurer's admitted assets;

(ii) loans or extensions of credit to a person who is not an affiliate if the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in an affiliate of the insurer making the loans or extensions of credit if the transactions, as of the prior December 31, are equal to or exceed:

(A) with respect to insurers other than life insurers, the lesser of 3% of the insurer's admitted assets or 25% of its surplus as regards policyholders;

(B) with respect to life insurers, 3% of the insurer's admitted assets;

(iii) *any of the following arrangements* ~~reinsurance agreements or modifications to reinsurance agreements~~ in which the *projected* reinsurance premium or a change *in any of the next 3 years* in the insurer's liabilities equals

or exceeds 5% of the insurer's surplus as regards policyholders, as of the prior December 31~~, including~~*:*

(A) reinsurance pooling agreements;

(B) reinsurance agreements;

(C) reinsurance modification to reinsurance agreements; or

(D) those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate~~,~~ if an agreement or understanding exists between the insurer and nonaffiliate that a portion of the assets will be transferred to one or more affiliates of the insurer;

(iv) all management agreements, service contracts, *tax allocation agreements, guarantees,* and cost-sharing arrangements; and

(v) any material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the insurer's policyholders.

(b) Nothing in this subsection (2) is considered to authorize or permit a transaction that, in the case of an insurer that is not a member of the same holding company system, would otherwise be contrary to law.

(3) A domestic insurer may not enter into a transaction that is part of a plan or series of like transactions with a person within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount review. If the commissioner determines that the separate transactions were entered into over a 12-month period for the purpose of evading review, the commissioner may exercise authority under 33-2-1120.

(4) The commissioner, in reviewing a transaction pursuant to subsection (2), shall consider whether the transaction complies with the standards set forth in subsection (1) and whether ~~it~~ *the transaction* may adversely affect the interests of a policyholder.

(5) The commissioner must be notified within 30 days of an investment by a domestic insurer in a corporation if the total investment in the corporation by the insurance holding company system exceeds 10% of the corporation's voting securities.

(6) For purposes of this section, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to ~~its~~ *the insurer's* financial needs, the following factors, among others, must be considered:

(a) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(b) the extent to which the insurer's business is diversified among the several lines of insurance;

(c) the number and size of risks insured in each line of business;

(d) the extent of the geographical dispersion of the insurer's insured risks;

(e) the nature and extent of the insurer's reinsurance program;

(f) the quality, diversification, and liquidity of the insurer's investment portfolio;

(g) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(h) the surplus as regards policyholders maintained by other comparable insurers;

(i) the adequacy of the insurer's reserves;

(j) the quality and liquidity of investments in ~~subsidiaries~~ *affiliates* made pursuant to 33-2-1104 through 33-2-1106. The commissioner may treat any investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants."

Section 30. Section 33-2-1115, MCA, is amended to read:

"33-2-1115. Examination. (1) *(a)* In addition to the powers ~~which the commissioner has~~ under *Title 33,* chapter 1, part 4, relating to the examination of insurers, the commissioner also has the power to order any insurer registered under 33-2-1111 to produce the records, books, or other information papers in the possession of the insurer or its affiliates ~~as~~ *that the commissioner determines* are necessary to ascertain the financial condition or legality of conduct of the insurer.

(b) The information that the commissioner may request under subsection (1)(a) includes information necessary to ascertain the enterprise risk to the insurer by the ultimate controlling party or by any entity or combination of entities within the insurance holding company system or by the insurance holding company system on a consolidated basis.

(c) If the insurer fails to comply with the order, the commissioner may examine the affiliates to obtain the information.

(2) The commissioner may retain at the registered insurer's expense attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff ~~as are~~ *that may be* reasonably necessary to assist in the conduct of the examination under subsection (1). Any persons retained are under the direction and control of the commissioner and ~~shall~~ *are retained to* act in a purely advisory capacity.

(3) Each registered insurer producing for examination records, books, and papers pursuant to subsection (1) is liable for and shall pay the expense of the examination."

Section 31. Section 33-2-1116, MCA, is amended to read:

"33-2-1116. Confidentiality of information. ~~All confidential criminal justice information, as defined in 44-5-103, personal information protected by an individual privacy interest, and trade secrets, as defined in 30-14-402, specifically identified and for which there are reasonable grounds of privilege asserted by the party claiming the privilege obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1111 and 33-2-1112 containing confidential criminal justice information, trade secrets, or personal information must be given confidential treatment, may not be subject to subpoena, and may not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication of the trade secrets or personal information, in which event the commissioner may publish all or any part of the trade secrets or personal information in a manner that the commissioner considers appropriate.~~

(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to

33-2-1115 and all information reported pursuant to 33-2-1104(3)(l), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 must be confidential by law and privileged, are not subject to 2-6-102, subpoena, or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, and other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which the documents, materials, or other information pertains unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would be served by the publication. On a determination that the interest of policyholders, shareholders, or the public would be served, the commissioner may publish all or any part of the documents, materials, or other information in a manner that the commissioner considers appropriate.

(2) Neither the commissioner nor any person who receives documents, materials, or other information while acting under the authority of the commissioner, or with whom the documents, materials, or other information is shared under [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section, may be required or permitted to testify in a private civil action concerning any confidential documents, materials, or information subject to subsection (1).

(3) To assist in the performance of the commissioner's duties, the commissioner:

(a) may, subject to subsection (3)(b), share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of a supervisory college. To receive the shared documents, materials, or other information, the recipient shall verify in writing that the recipient has the legal authority to maintain confidentiality and agree in writing to maintain the confidentiality and privileged status of the documents, materials, or other information.

(b) may share confidential and privileged documents, materials, or other information reported pursuant to 33-2-1111(7) only with insurance regulators of states having statutes or regulations substantially similar to subsection (1) and only if the respective insurance regulators have agreed in writing not to disclose the documents, materials, or other information;

(c) may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions; and

(d) shall maintain as confidential or privileged any document, materials, or other information received under subsection (3)(c) with notice or the understanding that the document, materials, or other information is confidential or privileged under the laws of the jurisdiction that is the source of the document, materials, or information.

(4) (a) The commissioner shall enter into written agreements with the NAIC governing the sharing and use of information provided pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section.

(b) An agreement with the NAIC under this subsection (4) must:

(i) specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators;

(ii) specify that ownership information shared with the NAIC and its affiliates and subsidiaries pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section remains with the commissioner and that the NAIC's use of the information is subject to the direction of the commissioner;

(iii) require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section is subject to a request or a subpoena to the NAIC for disclosure or production; and

(iv) require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer that has been shared with the NAIC and its affiliates and subsidiaries pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section.

(5) The sharing of information by the commissioner pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section does not constitute a delegation of regulatory authority or rulemaking. The commissioner is solely responsible for the administration, execution, and enforcement of the provisions of [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section.

(6) Disclosure to the commissioner of information under this section or as a result of sharing of confidential information authorized under subsections (3) and (4) does not constitute a waiver of any applicable privilege or claim of confidentiality related to the information obtained under [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section.

(7) Documents, materials, and other information in the possession or control of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential by law and privileged, are not admissible in evidence in a private civil action, and are not subject to 2-6-102, subpoena, or discovery."

Section 32. Section 33-2-1120, MCA, is amended to read:

"33-2-1120. Criminal or civil proceedings — penalties. (1) An insurer failing without just cause to file a registration statement as required in 33-2-1111 shall, after notice and hearing, pay a penalty of $100 for each day of delinquency. The maximum penalty under this subsection is $25,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) A director or an officer of an insurance holding company system who knowingly violates, participates in, or assents to a transaction or who knowingly permits an officer or insurance producer of the insurer to engage in a

transaction or make an investment that has not been properly reported or submitted pursuant to 33-2-1111 or 33-2-1113 or that violates any other provision of Title 33, chapter 2, part 11, shall, after notice and hearing, pay, in the director's or officer's individual capacity, a fine of not more than $5,000 for each violation. To determine the amount of the fine, the commissioner shall consider the appropriateness of the fine with respect to the gravity of the violation, the history of previous violations, and other matters that justice may require.

(3) If the commissioner determines that an insurer subject to Title 33, chapter 2, part 11, or a director, officer, employee, or insurance producer of the insurer has engaged in a transaction or entered into a contract that is subject to 33-2-1113 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void the contract and restore the status quo if that action is in the best interest of policyholders, creditors, or the public.

(4) Whenever ~~it appears to~~ the commissioner *determines* that ~~any~~ *an* insurer or ~~any~~ *a* director, officer, employee, or insurance producer of the insurer ~~has~~ *may have* committed a willful violation of this part, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if the insurer does not have an office in the state, then by the district court for Lewis and Clark County against the insurer or the responsible director, officer, employee, or insurance producer of the insurer.

(5) Withholding of information required under 33-2-1104, if lack of that information prevents a full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, is a violation of 33-2-1104 and may serve as an independent basis for:

(a) disapproving dividends or distributions; or

(b) placing the insurer under supervision as provided in 33-2-1321.

~~(5)~~*(6)* Any insurer that willfully violates this part may be fined not more than $25,000.

~~(6)~~*(7)* Any individual who willfully violates this part may be fined not more than $5,000 or, if the willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned for not more than 2 years, or both."

Section 33. Section 33-2-1216, MCA, is amended to read:

"33-2-1216. Credit allowed domestic ceding insurer. (1) Credit for reinsurance is allowed to a domestic ceding insurer as either an asset or a ~~deduction~~ *reduction* from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection (2), (3), (4), (5), or (6). *Credit must be allowed under subsections (2), (3), or (4) only in respect to cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which the branch of the alien assuming insurer entered and is licensed to transact insurance or reinsurance.* If the requirements of subsection (4) or (5) are met, the requirements of subsection (7) must also be met.

(2) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(3) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited *by the commissioner* as a reinsurer in this state. Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing. An accredited reinsurer is one that:

(a) files with the commissioner evidence of its submission to this state's jurisdiction;

(b) submits to this state's authority to examine its books and records;

(c) is licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement*;* and ~~either:~~

~~(i) maintains a surplus with regard to policyholders in an amount that is not less than $20 million and whose accreditation has not been denied by the commissioner within 90 days of its submission; or~~

~~(ii) maintains a surplus with regard to policyholders in an amount less than $20 million and whose accreditation has been approved by the commissioner.~~

(e) demonstrates to the satisfaction of the commissioner that the accredited reinsurer has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets this requirement as of the time of its application if:

(i) the assuming accredited reinsurer maintains a surplus as regards policyholders in an amount not less than $20 million; and

(ii) the commissioner approves its accreditation within 90 days after the date that the accredited reinsurer submits its application.

(4) (a) Subject to subsection (4)(b), credit must be allowed when:

(i) the reinsurance is ceded to an assuming insurer that is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute; and

(ii) the assuming insurer or the United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than $20 million; and

(B) submits to the authority of this state to examine its books and records.

(b) The requirement of subsection (4)(a)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(5) (a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers and their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. *The assuming insurer shall submit to examination of its books and records by the commissioner and shall bear the expense of examination.*

(b) (i) In the case of a single assuming insurer, the trust must consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a surplus with the trustee of not less than $20 million*, except as provided in subsection (5)(b)(ii)*.

(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the insurance regulator with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus after a finding that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows. The risk assessment must consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

~~(ii)~~*(iii)* In the case of a group, including incorporated and individual unincorporated underwriters, the trust must consist of a trusteed account representing the ~~group's~~ *respective underwriters'* liabilities attributable to business written in the United States~~, and in addition,~~ *to any underwriter of the group. Additionally,* the group shall maintain a surplus with the trustee of which $100 million must be held jointly for the benefit of United States ceding insurers of any member of the group.

~~(iii)~~ The incorporated members of the group, as group members, may not be engaged in a business other than underwriting as members of the group and are subject to the same level of solvency regulation and control by the insurance regulator as the unincorporated members. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the insurance regulator and the independent public accountants in the jurisdiction where the underwriter is domiciled.

(iv) In the case of a group of incorporated insurers under common administration:

(A) the provisions of subsection (5)(b)(iv)(B) apply to the group that:

(I) complies with the reporting requirements contained in subsection (5)(a);

(II) has continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation;

(III) submits to this state's authority to examine its books and records and bears the expense of the examination; and

(IV) has aggregate policyholders' surplus of $10 billion;

(B) (I) the trust must be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(II) the group shall maintain a joint surplus with a trustee of which $100 million is held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities; and

(III) each member of the group shall make available to the commissioner an annual certification of the member's solvency by the insurance regulator and

the independent public accountants in the jurisdiction where the underwriter is domiciled.

(c) The trust must be established in a form approved by the commissioner. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner. The trust described in this subsection *(5)*(c) must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(d) No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year. The trustees shall certify the date of termination of the trust, if planned, or certify that the trust may not expire prior to the following December 31.

(e) (i) The commissioner shall allow credit when the reinsurance is ceded to an assuming insurer that the commissioner has certified as a reinsurer in this state and secures its obligation in accordance with the requirements of subsection (5)(e)(ii) or (5)(e)(iii).

(ii) To be eligible for certification under this subsection (5)(e)(ii), an assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction as determined by the commissioner pursuant to subsection (5)(e)(iv) and shall:

(A) maintain minimum capital and surplus or its equivalent as promulgated by the commissioner by rule;

(B) maintain financial strength ratings from two or more rating agencies, as determined by the commissioner;

(C) agree to the jurisdiction of this state;

(D) appoint the commissioner as its agent for service of process in this state;

(E) agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final judgment from within the United States;

(F) agree to meet applicable information filing requirements as determined by the commissioner; and

(G) satisfy any other requirements for certification considered relevant by the commissioner.

(iii) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. The incorporated members of the association may not engage in any business other than underwriting as a member of the association. The incorporated members are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members. In order to be eligible for certification under this subsection (5)(e)(iii), the association shall satisfy the requirements of (5)(e)(ii) and shall:

(A) satisfy its minimum capital and surplus requirements through the capital and surplus equivalents as a net of liabilities of the association and its members. This provision must include use of a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members in

an amount that provides adequate protection as determined by the commissioner.

(B) provide to the commissioner, within 90 days of the date its financial statements are due to be filed with the association's domiciliary regulator, an annual certification by the association's domiciliary regulator of the solvency of each underwriter member. If a certification is unavailable, the association may provide a financial statement prepared by independent public accountants of each underwriter member.

(iv) The commissioner shall create, maintain, and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in a qualified jurisdiction is eligible to be considered for certification as a certified reinsurer. The commissioner shall certify all United States jurisdictions as long as those jurisdictions are accredited under the NAIC financial standards and accreditation program. For jurisdictions not in the United States, the commissioner may defer to a list of qualified jurisdictions published by the NAIC or, if the commissioner does not defer to the NAIC list, shall develop a list of qualified jurisdictions by considering:

(A) the reinsurance supervisory system of the jurisdiction;

(B) the rights, benefits, and extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled within the United States;

(C) whether an NAIC-accredited jurisdiction has certified the reinsurer; and

(D) any additional factors the commissioner considers relevant.

(v) Qualified jurisdictions under subsection (5)(e)(iv) shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction.

(vi) The commissioner may not approve a jurisdiction not in the United States if the commissioner determines that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

(vii) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may either suspend the reinsurer's certification indefinitely or revoke the certification entirely.

(viii) The commissioner shall assign a rating to each certified insurer. In assigning a rating, the commissioner shall consider the financial strength ratings assigned by agencies approved by the commissioner. The commissioner shall publish a list of all certified reinsurers and their ratings. The commissioner may defer to a rating assigned by a jurisdiction accredited by the NAIC.

(ix) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection (5)(e)(ix) at a level consistent with the certified reinsurer's rating. A domestic ceding insurer qualifies for full financial statement credit for reinsurance ceded to a certified reinsurer if the domestic ceding insurer:

(A) maintains security in a form acceptable to the commissioner and in accord with the provisions of this section; or

(B) forms a multibeneficiary trust in accord with subsections (5)(a) through (5)(d), except that minimum trusteed surplus requirements as provided in subsection (5)(b) do not apply with respect to a multibeneficiary trust account maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection (5)(e)(ix). A multibeneficiary trust under this subsection (5)(e)(ix)(B) must be maintained with a minimum trusteed surplus of $10 million.

(x) A certified reinsurer operating under subsection (5)(e)(ix)(B) shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection (5)(e) or comparable laws of other United States jurisdictions.

(xi) If obligations incurred by a certified reinsurer under this subsection (5)(e) lack sufficient security, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency. The commissioner may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(xii) For the purposes of this subsection (5)(e), a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure 100% of its obligations. If the commissioner assigns a higher rating to a certified reinsurer on inactive status pursuant to this subsection (5)(e)(xii), this subsection (5)(e)(xii) does not apply. As used in this subsection (5)(e)(xii), "terminated" refers to a reinsurer whose certificate of authority has been revoked, suspended, voluntarily surrendered, or put on inactive status.

(xiii) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection (5)(e), and the commissioner shall assign a rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(6) Credit must be allowed when the reinsurance is ceded to an assuming insurer that does not meet the requirements of subsection (2), (3), (4), or (5), but only with respect to the insurance of risks located in a jurisdiction in which the reinsurance is required by applicable law or regulation of that jurisdiction.

(7) (a) If the assuming insurer is not licensed, ~~or~~ accredited, *or certified* to transact insurance or reinsurance in this state, the credit permitted by subsections (4) and (5) may not be allowed unless the assuming insurer agrees in the reinsurance agreements *to the following provisions*:

(i) ~~that in the event of~~ *upon* the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, ~~will~~ *shall*:

(A) submit to the jurisdiction of any court of competent jurisdiction in any state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of any appellate court in the event of an appeal; and

(ii) ~~to~~ *the assuming insurer shall* designate the commissioner or a designated attorney as its attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding ~~company~~ *insurer*.

(b) Subsection (7)(a)(i) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if an obligation is created in the agreement.

(8) (a) If the assuming insurer does not meet the requirements of subsection (1), (2), or (3), the credit permitted by subsection (4) or (5) may not be allowed

unless the assuming insurer agrees in the trust agreements to the conditions under subsections (8)(b) through (8)(d).

(b) Regardless of any other provisions in the trust instrument, the trustee shall comply with an order of the commissioner or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner all assets of the trust fund if:

(i) the trust fund is inadequate because the trust fund contains an amount less than the required amount; or

(ii) the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings.

(c) The assets transferred under subsection (8)(a) must be distributed by the commissioner. Claims must be filed with and valued by the commissioner in accordance with the laws of the state in which the trust is domiciled and that apply to the liquidation of domestic insurers.

(d) The commissioner may determine that the assets of the trust fund or any part of the trust fund assets are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust. If the commissioner makes this determination, the commissioner shall return the assets or part of the assets to the trustee for distribution in accordance with the trust agreement.

(9) (a) The commissioner may suspend or revoke a reinsurer's accreditation or certification if the reinsurer ceases to meet the requirements of this section. The commissioner shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing unless:

(i) the reinsurer waives its right to a hearing;

(ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction; or

(iii) the commissioner finds that an emergency requires immediate action.

(b) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit under this section except to the extent that the reinsurer's obligations under the contract are secured in accordance with this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with 33-2-1217 and subsection (5)(e)(ix) of this section.

(10) A ceding insurer shall take steps:

(a) to manage the reinsurance recoverables proportionate to the ceding insurer's own book of business. A domestic ceding insurer shall provide notice to the commissioner within 30 days after:

(i) the reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(ii) a determination that the reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers is likely to exceed the limit in subsection (10)(a)(i).

(b) to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming

insurer or group of affiliated assuming insurers more than 20% of the ceding insurer's gross written premium in the prior calendar year or after the domestic ceding insurer has determined that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed the 20% limit.

(c) The notifications made pursuant to this subsection (10) must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(11) A reinsurance contract issued or renewed after the effective date of a suspension or revocation does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with this section."

Section 34. Section 33-2-1217, MCA, is amended to read:

"33-2-1217. Reduction of liability for reinsurance ceded by domestic insurer to assuming insurer — definition. A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of 33-2-1216 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer:

(1) under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer; or

(2) in the case of a trust, in a qualified United States financial institution. This security may be in the form of:

(a) cash;

(b) securities listed by the securities valuation office of the NAIC*, including those exempt from filing as defined in the purposes and procedures manual of the securities valuation office,* and qualifying as admitted assets;

(c) clean, irrevocable, unconditional letters of credit that are issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made and that are in the possession of the ceding ~~company~~ *insurer* on or before the filing date of ~~its~~ *the insurer's* annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first.

(d) any other form of security acceptable to the commissioner.

(3) For the purposes of subsection (2)(c), a "qualified United States financial institution" means an institution that:

(a) is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any of its states;

(b) is regulated, supervised, and examined by United States federal or state authorities with regulatory authority over banks and trust companies; and

(c) has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet the standards of financial condition and standing that are considered necessary

and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(4) For the purposes of this part, except for subsection (2)(c), "qualified United States financial institution" means, with respect to institutions eligible to act as a fiduciary of a trust, an institution that:

(a) is organized or, in the case of a United States branch or agency office of a foreign banking corporation, licensed under the laws of the United States or any of its states and that has been granted authority to operate with fiduciary powers; and

(b) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The commissioner may adopt rules implementing the provisions of 33-2-307, 33-2-708, and chapter 12."

Section 35. Section 33-2-1501, MCA, is amended to read:

"33-2-1501. Definitions. As used in parts 15 through 17 of this chapter, the following definitions apply:

(1) "Accredited state" means a state in which the department of insurance or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the national association of insurance commissioners.

(2) "Actuary" means a person who is a member in good standing of the American academy of actuaries.

(3) "Captive insurer" means:

(a) an insurer that is owned by another entity and whose exclusive purpose is to insure risks of the parent entity and its affiliates; or

(b) in the case of a group or association, an insurer that is owned by the member insureds and whose exclusive purpose is to insure risks to member insureds and their affiliates.

(4) "Control" or "controlled" has the meaning defined in 33-2-1101.

(5) "Controlled insurer" means an authorized insurer that is controlled, directly or indirectly, by a producer.

(6) "Controlling person" means a person, firm, association, or corporation that has the power to direct or cause to be directed the management, control, or activities of a reinsurance intermediary.

(7) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(8) (a) "Insurer" means any person, firm, association, or corporation authorized, under Title 33, chapter 2, part 1, to transact insurance business in this state.

(b) ~~With regard to part 15 only, the following are not insurers~~ *The term does not mean*:

~~(i) risk retention groups as defined in:~~

~~(A) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986);~~

~~(B) the Liability Risk Retention Act of 1986, 15 U.S.C. 3901, et seq.; or~~

~~(C) Title 33, chapter 11, part 1;~~

~~(ii)~~*(i)* residual market pools and joint underwriting authorities or associations; or

~~(iii)~~*(ii)* captive insurers*, other than captive risk retention groups as defined in 33-28-101.*

~~(c) With regard to parts 16 and 17, captive insurers are not insurers but captive risk retention groups are insurers.~~

(9) "Licensed producer" means a producer or reinsurance intermediary licensed pursuant to this title.

(10) (a) "Managing general agent" means a person who:

(i) manages all or part of the insurance business of an insurer and acts as an agent for the insurer;

(ii) either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross written premiums equal to or more than 5% of the policyholder surplus in any quarter or year; and

(iii) engages in one or more of the following activities on the business produced:

(A) adjustment or payment of claims in excess of an amount determined by the commissioner; or

(B) negotiation of reinsurance on behalf of the insurer.

(b) ~~Notwithstanding the provisions of subsection (10)(a), the following persons are not considered managing general agents~~ *The term does not include*:

(i) an employee of the insurer;

(ii) a manager of the United States branch of an alien insurer;

(iii) an underwriting manager who, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, is subject to Title 33, chapter 2, part 11, and whose compensation is not based solely on the value of premiums written;

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or an interinsurance exchange under powers of attorney;

(v) a person managing the property and liability business of a resident domestic farm mutual insurer who has been granted a managing general agent waiver under 33-4-320; or

(vi) a director of a resident domestic farm mutual insurer who adjusts claims and participates in the underwriting process.

(11) "NAIC" means the national association of insurance commissioners.

(12) "Producer" means an insurance producer or reinsurance intermediary authorized or licensed pursuant to this title.

(13) (a) "Qualified United States financial institution" means a financial institution that:

(i) is organized or licensed under the laws of the United States or any state;

(ii) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies and that either:

(A) is determined by the commissioner to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit are acceptable to the commissioner; or

(B) is eligible to act as a fiduciary of a trust or has been granted authority to operate with fiduciary powers.

(b) For purposes of this definition, the commissioner may by rule adopt standards of financial condition and standing that may be developed from time to time by the securities valuation office of the NAIC.

(14) "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

(15) "Reinsurance intermediary-broker" means a person, other than an officer or employee of the ceding insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(16) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer, whether known as a reinsurance intermediary-manager, manager, or other similar term.

(b) The following persons are not considered reinsurance intermediary-managers with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager who, pursuant to contract, manages all of the reinsurance operations of the reinsurer, is under common control with the reinsurer, is subject to Title 33, chapter 2, part 11, and whose compensation is not based on the volume of premiums written; or

(iv) a person who manages groups, associations, pools, or organizations of insurers that engage in joint underwriting or joint reinsurance and that are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(17) "Reinsurer" means a person, firm, association, or corporation licensed in this state under this title as an insurer with authority to assume reinsurance.

(18) "Underwrite" means the authority to accept or reject risk on behalf of the insurer."

Section 36. Section 33-11-103, MCA, is amended to read:

"33-11-103. Chartering — licensing — plan of operation. (1) A risk retention group seeking to be chartered in this state must be chartered and licensed to write only casualty insurance pursuant to the insurance laws of this state and, except as provided in this part, shall comply with all of the laws, rules, regulations, and requirements applicable to the insurers chartered and authorized in this state, including 33-11-104, to the extent that the requirements are not a limitation on laws, rules, regulations, or requirements of this state. Before ~~it may offer~~ *offering* insurance in any state, the risk retention group shall also submit for approval to the commissioner a plan of operation or a feasibility study and revisions of the plan or study if the group intends to offer any additional lines of liability insurance.

(2) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the following information:

(a) the identity of the initial members of the risk retention group;

(b) the identity of those individuals who organized the risk retention group or who will provide administrative services or otherwise influence or control the activities of the risk retention group;

(c) the amount and nature of initial capitalization;

(d) the coverages to be afforded; and

(e) the states in which the risk retention group intends to operate.

(3) Upon receipt of the information required under subsection (2), the commissioner shall forward the information to the national association of insurance commissioners. Providing this information to the national association of insurance commissioners does not satisfy the requirements of 33-11-104 or any other section of this chapter.

(4) All risk retention groups chartered in this state shall file with the department and the national association of insurance commissioners an annual statement in a form prescribed by the national association of insurance commissioners ~~and in diskette form~~, *including electronically* if required by the commissioner, and completed in accordance with ~~its~~ instructions *provided by the national association of insurance commissioners* and the national association of insurance commissioners' accounting practices and procedures manual.

(5) All risk retention groups must be in compliance with the governance standards contained within this section within 1 year of [the effective date of this act]. New risk retention groups must be in compliance with the standards at the time of licensure.

(6) (a) The board of directors of the risk retention group must consist of a majority of independent directors. If the risk retention group is reciprocal, the attorney-in-fact shall adhere to the same standards regarding independence of operation and governance as are imposed on the risk retention group's board of directors under these standards. The board of directors shall affirmatively determine that a director has no material relationship with the risk retention group for that director to be considered independent.

(b) Each risk retention group shall disclose the determinations of independence to the commissioner annually.

(c) (i) For the purpose of determining independence under this subsection (6), any person that is a direct or indirect owner of or a subscriber in the risk retention group or is an officer, director, or employee of the owner and insured, unless meeting the material relationship provisions under subsection (6)(c)(ii), is considered to be independent.

(ii) A person described in subsection (6)(c)(i) is not considered independent and has a material relationship of its members, as described in 15 U.S.C. 3901(a)(4)(E)(ii), if the person, a member of the person's immediate family, or any business with which the person is affiliated:

(A) has received in any 12-month period from the risk retention group, including a consultant or a service provider to the risk retention group, compensation or payment of any item of value that accounts for either 5% of the risk retention group's gross written premium for that 12-month period or 2% of the risk retention group's surplus, whichever is greater;

(B) has a relationship of employment or affiliation in a professional capacity or has had a relationship of employment or affiliation within 1 year with a present or former internal or external auditor of the risk retention group; or

(C) has a relationship or has had a relationship within 1 year with a related entity by which a director or an immediate family member of the director is employed as an executive officer. This condition includes any of the risk retention group's present executives serving on the related company's board of directors.

(7) (a) A material service provider contract with a risk retention group or its renewal:

(i) may not exceed 5 years;

(ii) requires the approval of a majority of the risk retention group's independent directors; and

(iii) is considered material if the amount to be paid for the contract is greater than or equal to 5% of the risk retention group's annual gross written premium or 2% of the risk retention group's surplus, whichever is greater.

(b) The entire board of directors may terminate any service provider contract at any time for cause after providing adequate notice as defined in the contract.

(c) The board may not enter a service provider contract with a person who has a material relationship with the risk retention group as provided in subsection (6)(c)(ii) unless the board has notified the commissioner at least 30 days prior to entering the contract and the commissioner has not disapproved the contract.

(8) The risk retention group's board of directors shall adopt in the plan of operation a written policy that requires the board to:

(a) ensure that all owners or insureds of the risk retention group receive evidence of ownership interest;

(b) develop a set of governance standards applicable to the risk retention group;

(c) oversee the evaluation of the risk retention group's management, including but not limited to the performance of the captive manager, managing general underwriter, or any other party that is responsible for underwriting, determination of rates, collection of premium, adjusting or settling claims, or the preparation of financial statements;

(d) review and approve the amount to be paid for all material service providers; and

(e) review and approve at least annually:

(i) the risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(ii) the officers' and service providers' performance in light of those goals and objectives; and

(iii) the continued engagement of the officers and material service providers.

(9) (a) Except as provided in subsection (9)(b), the risk retention group shall name an audit committee composed of at least three independent board members as defined in subsection (6)(c)(i). A nonindependent board member may participate in the activities of the audit committee but may not be a member of the audit committee.

(b) The entire board of directors shall serve as the audit committee if the board chooses not to designate a separate audit committee.

(10) An audit committee shall approve a written charter that defines the committee's purpose, which at a minimum must be to:

(a) assist board oversight of:

(i) the integrity of the financial statements;

(ii) the board's compliance with legal and regulatory requirements; and

(iii) the qualifications, independence, and performance of the independent auditor and actuary;

(b) discuss the annual audited financial statements and quarterly financial statements with management;

(c) discuss the annual audited financial statement with its independent auditor and, if advisable, discuss its quarterly financial statements with its independent auditor;

(d) discuss policies with respect to risk assessment and risk management;

(e) meet separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors;

(f) review with the independent auditor any audit problems or difficulties and management's response;

(g) set clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor;

(h) require the external auditor to rotate the lead or coordinating audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing the audit so that neither individual performs audit services for more than 5 consecutive fiscal years; and

(i) report regularly to the board of directors.

(11) (a) The board of directors shall adopt and disclose standards that make information available through electronic or other means and shall provide that information upon request.

(b) For the purposes of this subsection (11), the information must include:

(i) the process by which the directors are elected by the owner or the insureds;

(ii) qualification standards, responsibilities, and compensation for directors;

(iii) director access to management and, as necessary and appropriate, to independent advisors;

(iv) director orientation and continuing education;

(v) management succession policies and procedures; and

(vi) annual board performance evaluation policies and procedures.

(12) (a) The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers, and employees. Any waivers of this code as the code applies to directors and officers must be voted on by a majority of the independent directors.

(b) The code must address:

(i) conflicts of interest, including conflicts provided for in 35-1-461(1)(b)(i);

(ii) confidentiality;

(iii) fair dealing;

(iv) protection and proper use of risk retention group assets;

(v) compliance with all applicable laws, rules, and regulations; and

(vi) requirements for the reporting of any illegal or unethical behavior that affects the operation of the risk retention group.

(13) The captive manager, president, or chief executive officer of the risk retention group shall promptly notify the commissioners in writing as soon as that person is aware of any material noncompliance with any standard provided for in this section."

Section 37. Section 33-20-203, MCA, is amended to read:

"33-20-203. Cash surrender value — paid-up nonforfeiture benefit — life. (1) Except as provided in subsection (2), any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by 33-20-202, ~~shall be~~ *is* an amount not less than the excess, if any, of the present value on ~~such~~ *the* anniversary of the future guaranteed benefits ~~which~~ *that* would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(a) the then present value of the adjusted premiums as defined in 33-20-204 through 33-20-208 corresponding to premiums ~~which~~ *that* would have fallen due on and after ~~such~~ *the* anniversary; and

(b) the amount of any indebtedness to the insurer on account of or secured by the policy.

(2) For any policy issued on or after the *relevant* operative date of 33-20-208 that provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection (1) is an amount not less than the sum of the cash surrender value as defined in subsection (1) for an otherwise similar policy issued at the same age without ~~such~~ *a* rider or *a* supplemental policy provision and the cash surrender value as defined in subsection (1) for a policy that provides only the benefits otherwise provided by ~~such~~ *the* rider or *the* supplemental policy provision.

(3) Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by 33-20-202, ~~shall be~~ *is* an amount not less than the present value, on ~~such~~ *the* anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(4) Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary ~~shall be such that~~ *is* its present value as of ~~such~~ *the* anniversary ~~shall be~~ *to the extent that the nonforfeiture benefit is* at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value ~~which~~ *that* would have been required by this part in the absence of the conditions that premiums ~~shall~~ *must* have been paid for at least a specified period.

(5) For any family policy issued on or after the *relevant* operative date of 33-20-208 that defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse reaches 71 years of age, the cash surrender value referred to in subsection (1) is an amount not less than the sum of the cash surrender value as defined in subsection (1) for an otherwise similar policy issued at the same age without ~~such~~ *the* term insurance on the life of the spouse and the cash surrender value as defined in subsection (1) for a policy that provides only the benefits otherwise provided by ~~such~~ *the* term insurance on the life of the spouse."

Section 38. Section 33-20-208, MCA, is amended to read:

"33-20-208. Mortality tables — interest rate adjusted premiums. (1) (a) This section applies to all policies issued on or after the operative date of this section. Except as provided in subsection (7), the adjusted premiums for any policy are calculated on an annual basis and must be ~~such~~ a uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments, special hazards, and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits~~, that~~. *The uniform percentage must represent* the present value, at the date of issue of the policy, of all adjusted premiums *that* is equal to the sum of:

(i) the then present value of the future guaranteed benefits provided for by the policy;

(ii) 1% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(iii) 125% of the nonforfeiture net level premium as provided in subsection (2). ~~No~~ *A* nonforfeiture net level premium is considered *not* to exceed 4% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

(b) The date of issue of a policy for the purpose of this subsection is the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium is equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of ~~such~~ *that* policy on which a premium falls due.

(3) For policies that have on a basis guaranteed in the policy unscheduled changes in benefits or premiums or that provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values are initially calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any ~~such~~ change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values must be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subsection (7), the recalculated future adjusted premiums for any ~~such~~ policy ~~shall be such~~ *are a* uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments, special hazards, and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits~~, that~~. *The uniform percentage must be* the present value, at the time of change to the newly defined benefits or premiums, of all ~~such~~ future adjusted premiums ~~shall be~~ *that is* equal to the excess of:

(a) the sum of:

(i) the then present value of the then future guaranteed benefits provided for by the policy; and

(ii) the additional expense allowance, if any; over

(b) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:

(a) 1% of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change, over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change or, if there has been no previous change, the date of issue of the policy; and

(b) 125% of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium is equal to the result obtained by dividing the product of subsection (a) by the product of subsection (b):

(a) (i) the nonforfeiture net level premium applicable prior to the change multiplied by the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(ii) the present value of the increase in future guaranteed benefits provided for by the policy;

(b) the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) ~~Notwithstanding any other~~ *Adjusted premiums and present values for a substandard policy may be calculated as if the substandard policy were issued to provide higher uniform amounts of insurance on the standard basis, regardless of other* provisions of this section for a policy issued on a substandard basis that provides reduced graded amounts of insurance so that, in each policy year, ~~such~~ *the* policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis that provides higher uniform amounts of insurance~~, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis~~.

(8) Except as provided below, all adjusted premiums and present values referred to in this part are for policies of ordinary insurance calculated on the basis of the commissioner's 1980 standard ordinary mortality table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with 10-year select mortality factors. All adjusted premiums and present values for policies of industrial insurance are calculated on the basis of the commissioner's 1961 standard industrial mortality table. All adjusted premiums and present values for all policies issued in a particular calendar year are calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as provided in this subsection for policies issued in that calendar year; with the following exceptions and conditions:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as provided in this subsection for policies issued in the immediately preceding calendar year.

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by 33-20-202, is calculated on the basis of the mortality table and rate of interest used in determining the amount of ~~such~~ *the* paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(c) An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioner's 1961 industrial extended term insurance table for policies of industrial insurance.

(e) For insurance issued on a substandard basis, the calculation of any ~~such~~ adjusted premiums and present values may be based on appropriate modifications of the tables set forth in this subsection (8).

(f) *(i)* ~~Any~~ *For policies issued prior to the operative date of the valuation manual as provided in 33-2-523, any commissioner's standard* ordinary mortality tables adopted after 1980 by the national association of insurance commissioners that are approved by the commissioner by rule for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1980 standard ordinary mortality table with or without 10-year select mortality factors or for the commissioner's 1980 extended term insurance table.

(ii) For policies issued on or after the operative date of the valuation manual as provided in 33-2-523, the commissioner may use the standard mortality table provided in the valuation manual for use in determining the minimum nonforfeiture standard instead of using either the commissioner's 1980 standard ordinary mortality table with or without 10-year select mortality factors or the commissioner's 1980 extended term insurance table.

(iii) A minimum nonforfeiture standard, if adopted by the commissioner by rule for the commissioner's standard mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, supersedes the valuation manual's nonforfeiture standard.

(g) *(i)* ~~Any~~ *For policies issued prior to the operative date of the valuation manual, any* industrial mortality tables adopted after 1980 by the national association of insurance commissioners that are approved by the commissioner by rule for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1961 standard industrial mortality table or the commissioner's 1961 industrial extended term insurance table.

(ii) For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioner's standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioner's 1961 standard industrial mortality table or the commissioner's 1961 industrial extended term insurance table.

(iii) A minimum nonforfeiture standard, if adopted by the commissioner by rule for the commissioner's standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, supersedes the valuation manual's nonforfeiture standard.

(9) *(a)* ~~The~~ *For policies issued prior to the operative date of the valuation manual, the annual* nonforfeiture interest rate ~~per annum~~ for any policy issued in a particular calendar year must be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, Title 33, chapter 2, part 5, rounded to the nearer 1/4 of 1%. *However, the nonforfeiture interest rate provided for in this subsection (9)(a) may not be less than 4.00%.*

(b) For policies issued on or after the operative date of the valuation manual, the annual nonforfeiture interest rate for any policy issued in a particular calendar year must be as provided in the valuation manual.

(10) ~~Notwithstanding any other provision in this code to the contrary, any~~ *Any* refiling of nonforfeiture values or their methods of computation for any

previously approved policy form that involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

(11) After October 1, 1983, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date, before January 1, 1989, which is the operative date of this section for ~~such~~ *that* insurer. If an insurer makes no ~~such~~ election, the operative date of this section for ~~such~~ *the* insurer is January 1, 1989."

Section 39. Section 33-31-204, MCA, is amended to read:

"33-31-204. Acquisition, control, or merger of a health maintenance organization. (1) Except as provided in 33-2-1106 and subsection (2) *of this section*, ~~no~~ *a* person may *not* tender for, request, or invite tenders of, or enter into an agreement to exchange securities for or acquire in the open market or otherwise, any voting security of a health maintenance organization or enter into any other agreement if, after the consummation ~~thereof~~ *of the agreement*, that person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the health maintenance organization.

(2) ~~No~~ *A* person may *not* enter into an agreement to merge or consolidate with or otherwise to acquire control of a health maintenance organization, unless, at the time any offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the acquiring person has filed with the commissioner and has sent to the health maintenance organization information required by ~~33-2-1104(2)~~ *33-2-1104* and the commissioner has approved the offer, request, invitation, agreement, or acquisition pursuant to 33-2-1105."

Section 40. Codification instruction — directions to code commissioner. (1) [Sections 1 through 9] are intended to be codified as an integral part of Title 33, chapter 2, part 11, and the provisions of Title 33, chapter 2, part 11, apply to [sections 1 through 9].

(2) [Sections 10 through 16] are intended to be codified as an integral part of Title 33, chapter 2, and the provisions of Title 33, chapter 2, apply to [sections 10 through 16].

(3) Sections 33-2-521 through 33-2-529, 33-2-531, and 33-2-537 are intended to be renumbered and codified as a new part of Title 33, chapter 2.

(4) [Sections 10 through 16] are intended to be codified into the same part in Title 33, chapter 2, as the sections enumerated in subsection (3).

(5) The code commissioner is instructed to change internal references within and to the renumbered sections, including sections enacted or amended by the 64th legislature, to reflect the new section numbers assigned to sections pursuant to this section.

Section 41. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 42. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 43. Effective date. [This act] is effective on passage and approval.

Section 44. Retroactive applicability. [This act], except for the provisions of [sections 12 and 13], applies retroactively, within the meaning of

1-2-109, to all policies and contracts subject to 33-2-521 that were issued prior to the operative date of the valuation manual as provided in 33-2-523.

Approved April 30, 2015

CHAPTER NO. 371

[HB 244]

AN ACT PROVIDING FOR AN APPROPRIATION FOR POTENTIAL LITIGATION TO IMPROVE AND PROTECT THE STATE'S ACCESS TO AND GROWTH IN DOMESTIC AND INTERNATIONAL MARKETS AND OTHER LITIGATION; PLACING CONDITIONS ON THE APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) For the biennium beginning July 1, 2015, there is appropriated $1 million from the general fund to the department of justice for litigation to improve and protect the state's access to and growth in domestic and international markets for its products and natural resources including energy and other major litigation. At least $200,000 of these funds may be expended only for actions that the attorney general determines will likely establish, benefit, improve, or protect the state's access to domestic or international markets and may be used at the discretion of the attorney general to cover the costs and fees of those actions, including evaluating, commencing, or participating in legal actions or proceedings in state and federal courts or administrative proceedings.

(2) Any funds not expended or encumbered in the biennium must revert to the general fund.

(3) The department of justice will report to the legislative finance committee prior to the end of each fiscal year on any amounts expended or encumbered in that fiscal year for the purposes described in subsection (1).

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved April 30, 2015

CHAPTER NO. 372

[HB 389]

AN ACT REQUIRING PERIODIC REAPPLICATION BY AN OWNER OF CERTAIN TAX-EXEMPT REAL PROPERTY FOR THE PURPOSE OF MAINTAINING AN EXEMPTION FROM PROPERTY TAXES; REQUIRING A PUBLIC LISTING OF CERTAIN PROPERTY THAT IS EXEMPT FROM TAXATION; ESTABLISHING A DUTY FOR AN OWNER OF TAX-EXEMPT PROPERTY TO REPORT A CHANGE IN USE; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT; REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH A FEE TO OFFSET REVIEW COSTS; WAIVING THE FEE FOR CERTAIN NONPROFIT ORGANIZATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-16-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Periodic review of property tax exemption — dispute resolution — rulemaking. (1) Owners of real property shall apply to the department for a property tax exemption under 15-6-201(1)(b), (1)(e) through (1)(g), (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, and 15-6-227.

(2) The department shall administer the provisions of subsection (1) by requiring real property owners or entities to submit:

(a) a renewal application and the accompanying fee provided for in [section 3] for each real property that is receiving tax-exempt status on [the effective date of this act]; and

(b) any further information deemed necessary by the department as established by rule for the purpose of making a determination of continued eligibility for tax-exempt status.

(c) (i) The initial renewal application must be submitted to the department no later than March 1, 2016. Subject to subsection (2)(c)(ii), the department shall require uniform renewal applications to be submitted on a cyclical basis as established by rule, and cyclical review must occur at least every 6 years.

(ii) A real property owner or entity that received a new exemption within 2 calendar years of the uniform renewal application deadline is not required to submit a renewal application during the property's first review cycle.

(3) The department shall review the information provided and shall approve or deny the application for exemption. If the department determines that the real property or a portion of the real property is no longer eligible for a property tax exemption, it shall send the owner or entity claiming the exemption a notice of the real property or portion of the real property that is subject to loss of eligibility by posted mail, by e-mail, or electronically. The owner or entity may seek review of the department's final determination with the state tax appeal board.

(4) The department shall provide public notice to real property owners or entities for which it has a last known address of their obligation to reapply for tax-exempt status under the provisions of subsection (2) by:

(a) sending through posted mail, by e-mail, or electronically a notice to real property owners or entities for which it has a last known address; and

(b) publishing notices on its website and in publications of general circulation in Montana.

(5) The department shall establish uniform deadlines for owners or entities to reapply for tax-exempt status while maintaining consistency, uniform standards, and an orderly review process. The department shall consider the timeframe for certification of taxable value to taxing authorities under 15-10-202 when it establishes deadlines under this section.

(6) The department may grant a reasonable extension of time for a real property owner to comply with this section whenever, in its judgment, good cause exists.

(7) The department may adopt rules that are necessary to implement and administer the provisions of [section 3] and this section.

Section 2. Public listing of exempt property. (1) The department shall maintain a public listing of real property that is exempt from property taxation under the provisions of 15-6-201(1)(b), (1)(e) through (1)(g), (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, and 15-6-227 by utilizing information that is obtained during the application process in [section 1] and from new applications for property tax exemptions.

(2) The public listing must be a free internet database of tax-exempt parcels that is organized by county and type of exemption and includes the following information:

(a) the county in which the exempt real property is located;

(b) the name of the owner or entity utilizing the exemption;

(c) the mailing address of the owner or entity utilizing the exemption;

(d) the exempt real property's legal description and total exempt area, including the square footage or acreage of the parcel and the square footage of any buildings;

(e) the property address of the exempt real property;

(f) the type of exemption; and

(g) any additional information considered relevant by the department.

(3) The department shall report biennially to the revenue and transportation interim committee with an update of the review and determination process under [section 1] and this section.

Section 3. Exemption renewal application fee — deposit to account. (1) There is a property exemption review state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except as provided in subsection (3), the department is authorized and directed to impose a fee during the rulemaking process for the purpose of administering the provisions of [sections 1 and 2] and this section. The total amount of revenue generated by the fee must be deposited in the property exemption review account and be commensurate with administrative costs. When determining the amount of the fee charged to each owner or entity, the department shall consider the following factors:

(a) equality for similarly situated applicants;

(b) the complexity of the review process by each category of property;

(c) the square footage of the parcel;

(d) the square footage of the building;

(e) a combination of the factors in subsections (2)(c) and (2)(d); and

(f) the average amount of administrative costs associated with administering [sections 1 and 2] and this section by each category of property.

(3) The department may not impose a fee for a nonprofit organization with annual gross receipts of $5,000 or less.

(4) Appropriations may be made from this account to the department for the activities authorized in [sections 1 and 2] and this section.

Section 4. Duty to report change in use. Owners of property that is exempt from property taxation shall report a change in use of all or part of the property to the department within 30 days of the change in use.

Section 5. Section 15-16-203, MCA, is amended to read:

"15-16-203. Assessment of property previously exempt. (1) Subject to *[section 1(3)] and* 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that during a tax year become ~~the property of a person~~ subject to taxation must be assessed and taxed from the date of change from a nontaxable status to a taxable status.

(2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and payable for the current year on the property under 15-16-102 if the property was not exempt.

(3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property will be in taxable status bears to 365.

(4) If the property has not been assessed and taxed during the taxable year because of exemption, the department shall prepare a special assessment for the property and the county treasurer shall determine the amount of taxes that would have been due under subsection (2).

(5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the date or dates on which the taxes due are payable as provided in 15-16-102."

Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [sections 1 through 4].

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Termination. [Sections 1 through 3 and 5] terminate December 31, 2021.

Approved April 30, 2015

CHAPTER NO. 373

[HB 468]

AN ACT REVISING LAWS RELATING TO THE MAXIMUM PERIOD OF COMMITMENT OR IMPOSITION OF A COMMUNITY TREATMENT PLAN FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; AND AMENDING SECTION 53-20-126, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-20-126, MCA, is amended to read:

"53-20-126. Maximum period of commitment or treatment plan. The court order approving the commitment to a residential facility or the imposition of the community treatment plan must specify the maximum period of time for which the person is committed or for which a community treatment plan is imposed. The maximum period may not exceed *90 days for commitment to a residential facility or* 1 year *for the imposition of a community treatment plan*."

Approved April 30, 2015

CHAPTER NO. 374

[HB 486]

AN ACT REVISING THE DEFINITION OF "BICYCLE" BY REMOVING THE REFERENCES TO A MOPED; DEFINING "MOPED" AND ADDING REFERENCES TO EXISTING APPLICABLE LAWS; AND AMENDING SECTIONS 15-6-219, 33-23-204, 61-1-101, 61-8-102, 61-8-601, 61-8-602, 61-8-603, 61-8-604, 61-8-605, 61-8-606, 61-8-607, 61-8-608, 61-8-609, AND 61-12-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-219, MCA, is amended to read:

"15-6-219. Personal and other property exemptions. The following categories of property are exempt from taxation:

(1) harness, saddlery, and other tack equipment;

(2) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(a) construct, repair, and maintain improvements to real property; or

(b) repair and maintain machinery, equipment, appliances, or other personal property;

(3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(4) a bicycle *or a moped*, as defined in 61-8-102, used by the owner for personal transportation purposes;

(5) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(a) the acquired cost of the personal property is less than $15,000;

(b) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(c) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly basis;

(6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance; and

(7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105."

Section 2. Section 33-23-204, MCA, is amended to read:

"33-23-204. Definitions. As used in this part, the following definitions apply:

(1) (a) "Motor vehicle" means a vehicle propelled by its own power and designed primarily to transport persons or property ~~upon~~ *on* the highways of the state.

(b) The term does not include a bicycle *or a moped*, as defined in 61-8-102, an electric personal assistive mobility device, as defined in 61-1-101, ~~and~~ *or* a motorized nonstandard vehicle, as defined in 61-1-101.

(2) "Motor vehicle liability policy" means a policy of automobile or motor vehicle insurance against liability required under Title 61, chapter 6, parts 1 and 3, and all additional coverages included in or added to the policy by rider, endorsement, or otherwise, whether or not required under Title 61, including, without limitation, uninsured, underinsured, and medical payment coverages."

Section 3. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes ~~upon~~ *on* behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; ~~and~~ *or*

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency service vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) entitled to the exemptions granted under 61-8-107;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; *or*

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (14)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, ~~upon~~ *on* or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license or permit limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or instruction permit;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, ~~upon~~ *on* or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; *or*

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles ~~upon~~ *on* a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSIA/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply~~;~~*,* or both.

(45) (a) "Motorized nonstandard vehicle" means a vehicle, ~~upon~~ *on* or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property ~~upon~~ *on* the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; ~~and~~ *or*

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle~~,~~ registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or *for* other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property ~~upon~~ *on* the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a

mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle ~~upon~~ *on* which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property ~~upon~~ *on* cars, other than streetcars, operated ~~upon~~ *on* stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated ~~upon~~ *on* rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public

highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted ~~upon~~ *on* by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests ~~upon~~ *on* or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests ~~upon~~ *on* the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, *or* given away~~,~~ or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(89) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) "Vehicle" means a device in, ~~upon~~ *on*, or by which any person or property may be transported or drawn ~~upon~~ *on* a public highway, except devices moved by animal power or used exclusively ~~upon~~ *on* stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Section 4. Section 61-8-102, MCA, is amended to read:

"61-8-102. Uniformity of interpretation — definitions. (1) Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title 7, chapter 33, an ambulance, ~~and~~ *or* an emergency vehicle designated or authorized by the department.

(b) "Bicycle" means~~:~~

~~(i)~~ a vehicle propelled solely by human power ~~upon~~ *on* which any person may ride and that has two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position, except scooters and similar devices~~; or~~

~~(ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement may not exceed 3.05 cubic inches, 50 centimeters, regardless of the number of chambers in the power source. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour, 48.28 kilometers an hour, on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged~~.

(c) "Business district" means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(d) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway.

(e) "Crosswalk" means:

(i) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; *or*

(ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

(f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic ~~upon~~ *on* a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic hazard, must be equipped as required by the rules of the department of transportation.

(g) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use.

(h) "Ignition interlock device" means ignition equipment that:

(i) analyzes the breath to determine blood alcohol concentration;

(ii) is approved by the department pursuant to 61-8-441; and

(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage.

(i) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling ~~upon~~ *on* different highways joining at any other angle may come in conflict.

(ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection.

(j) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

(k) "Moped" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged.

~~(k)~~*(l)* "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101(9)(b).

~~(l)~~*(m)* "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

~~(m)~~*(n)* "Pedestrian" means any person on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

~~(n)~~*(o)* "Police vehicle" means a vehicle used in the service of any law enforcement agency.

~~(o)~~*(p)* "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~(p)~~*(q)* "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or *with* residences and buildings in use for business.

~~(q)~~*(r)* "Right-of-way" means the privilege of the immediate use of the roadway.

~~(r)~~*(s)* "School bus" has the meaning provided in 20-10-101.

~~(s)~~*(t)* "Sidewalk" means ~~that~~ *the* portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians.

~~(t)~~*(u)* "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

~~(u)~~*(v)* "Urban district" means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more."

Section 5. Section 61-8-601, MCA, is amended to read:

"61-8-601. Effect of regulations. (1) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this part.

(2) ~~These~~ *Subject to the exceptions stated in this part, the* regulations applicable to bicycles ~~shall~~ apply whenever*:*

(a) a bicycle *or moped* is operated ~~upon~~ *on* any highway*;* or ~~upon~~

(b) a bicycle is operated on any path set aside for the exclusive use of bicycles ~~subject to those exceptions stated herein~~."

Section 6. Section 61-8-602, MCA, is amended to read:

"61-8-602. Traffic laws applicable to persons operating bicycles *or mopeds*. ~~Every~~ *A* person operating a bicycle ~~shall be~~ *or moped is* granted all of the rights and ~~shall be~~ *is* subject to all of the duties applicable to the driver of any other vehicle by chapter 7, ~~this chapter, and~~ chapter 9*, and this chapter* except ~~as to~~ *for* special regulations in this part ~~and except as to those~~ *or the* provisions of chapter 7, ~~this chapter, and~~ chapter 9*,* ~~which~~ *and this chapter that* by their ~~very~~ nature ~~can have no application~~ *cannot apply*."

Section 7. Section 61-8-603, MCA, is amended to read:

"61-8-603. Riding on bicycles *or mopeds*. A person propelling a bicycle ~~shall not~~ *or moped may* ride ~~other than upon~~ *only on* or astride a permanent and regular seat attached ~~thereto~~ *to the bicycle or moped*."

Section 8. Section 61-8-604, MCA, is amended to read:

"61-8-604. Clinging to vehicles. A person riding ~~upon~~ *on* any bicycle, coaster, *moped,* roller skates, sled, or toy vehicle may not attach the conveyance or be attached to any vehicle ~~upon~~ *on* a roadway, but a bicycle trailer or bicycle semitrailer may be attached to a bicycle if that trailer or semitrailer has been designed for attachment."

Section 9. Section 61-8-605, MCA, is amended to read:

"61-8-605. Riding on roadways. (1) As used in this section:

(a) "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic; and

(b) "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

(2) A person operating a bicycle ~~upon~~ *on* a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable except when:

(a) overtaking and passing another vehicle proceeding in the same direction;

(b) preparing for a left turn at an intersection or into a private road or driveway; or

(c) necessary to avoid a condition that makes it unsafe to continue along the right side of the roadway, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is

too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(3) A person operating a bicycle ~~upon~~ *on* a one-way highway with two or more marked traffic lanes may ride as close to the left side of the roadway as practicable.

(4) Persons riding bicycles ~~upon~~ *on* a roadway shall ride in single file except when:

(a) riding on paths or parts of roadways set aside for the exclusive use of bicycles;

(b) overtaking and passing another bicycle;

(c) riding on a paved shoulder or in a parking lane, in which case the persons may ride two abreast; or

(d) riding within a single lane on a laned roadway with at least two lanes in each direction, in which case the persons may ride two abreast if they do not impede the normal and reasonable movement of traffic more than they would otherwise impede traffic by riding single file and in accordance with the provisions of this chapter.

(5) A ~~bicycle~~ *moped*, as defined in 61-8-102~~(2)(b)(ii)~~*(2)(k)*, is excluded from the provisions of subsections (2) and (3)."

Section 10. Section 61-8-606, MCA, is amended to read:

"61-8-606. Carrying articles. ~~No~~ *A* person operating a bicycle *or moped* ~~shall~~ *may not* carry any package, bundle, or article ~~which~~ *that* prevents the driver from keeping at least one hand ~~upon~~ *on* the ~~handle bars~~ *handlebars*."

Section 11. Section 61-8-607, MCA, is amended to read:

"61-8-607. Lamps and other equipment on bicycles *and mopeds*. (1) ~~Every~~ *A* bicycle *or moped* when in use at nighttime ~~shall~~ *must* be equipped with a lamp on the front ~~which shall emit~~ *emitting* a white light visible from a distance of at least 500 feet to the front. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to rear-facing reflectors required by this section.

(2) ~~Every~~ *A* bicycle *or moped* when in use at nighttime ~~shall~~ *must* be equipped with an essentially colorless front-facing reflector, essentially colorless or amber pedal reflectors, and a red rear-facing reflector. Pedal reflectors ~~shall~~ *must* be mounted on the front and back of each pedal.

(3) ~~Every~~ *A* bicycle *or moped* when in use at nighttime ~~shall~~ *must* be equipped with either tires with retroflective sidewalls or reflectors mounted on the spokes of each wheel. ~~Spoke mounted~~ *Spoke-mounted* reflectors ~~shall~~ *must* be within 76 millimeters (3 inches) of the inside of the rim and ~~shall~~ be visible on each side of the wheel. The reflectors on the front wheel ~~shall~~ *must* be essentially colorless or amber and the reflectors on the rear wheel ~~shall~~ *must* be amber or red.

(4) Reflectors required by this section ~~shall~~ *must* be of a type approved by the department.

(5) ~~Every~~ *A* bicycle ~~shall~~ *or moped must* be equipped with a brake ~~which~~ *that* will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(6) ~~Every~~ *A* bicycle *or moped* is encouraged to be equipped with a flag clearly visible from the rear and suspended not less than 6 feet above the roadway when the bicycle is standing upright. The flag ~~shall~~ *must* be fluorescent orange in color."

Section 12. Section 61-8-608, MCA, is amended to read:

"61-8-608. Bicycles *or mopeds* on sidewalks *and bike lanes.* (1) ~~A~~ *Subject to the provisions of subsection (3)(b), a* person operating a bicycle *or moped* ~~upon~~ *on* and along a sidewalk or across a roadway ~~upon~~ *on* and along a crosswalk shall yield the right-of-way to any pedestrian and shall give *an* audible signal before overtaking and passing any pedestrian.

(2) A person may not ride a bicycle *or moped* ~~upon~~ *on* and along a sidewalk or across a roadway ~~upon~~ *on* and along a crosswalk where the use of a bicycle *or moped* is prohibited by official traffic control devices.

(3) *(a)* Except as provided in subsections (1) and (2), a person operating a vehicle by human power ~~upon~~ *on* and along a sidewalk or across a roadway ~~upon~~ *on* and along a crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances.

(b) A moped may be operated on and along a sidewalk or a bicycle path only under human propulsion and may not be operated on or along a sidewalk or bicycle path if the moped is under power from an independent power source.

(c) A moped may be operated under human propulsion or an independent power source on a highway, in a designated bicycle lane on a highway, or on the shoulder of a highway."

Section 13. Section 61-8-609, MCA, is amended to read:

"61-8-609. Bicycle *or moped* racing — when lawful. (1) Bicycle *or moped* racing on a highway is prohibited except as authorized in this section.

(2) Bicycle *or moped* racing on a highway is lawful when a racing event is approved by state or local authorities on any highway under their respective jurisdictions. Approval of bicycle *or moped* highway racing events ~~will~~ *may* be granted only under conditions that ~~assure~~ *ensure* reasonable safety for all race participants, spectators, and other highway users and that prevent unreasonable interference with traffic flow.

(3) By agreement with the approving authority, participants in an approved bicycle *or moped* highway racing event may be exempted from compliance with any traffic laws otherwise applicable if traffic control is adequate to ~~assure~~ *ensure* the safety of all highway users."

Section 14. Section 61-12-101, MCA, is amended to read:

"61-12-101. Powers of local authorities to regulate traffic. The provisions of chapters 8 and 9 do not prevent local authorities with respect to sidewalks, streets, and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) regulating the standing or parking of vehicles;

(2) regulating the traffic by means of police officers or traffic control devices;

(3) regulating or prohibiting processions or assemblages on the highways;

(4) designating particular highways as one-way highways and requiring that all vehicles on those highways be moved in one specific direction;

(5) regulating the speed of vehicles in public parks;

(6) designating any highway as a through highway, as defined in 61-8-341, and requiring that all vehicles stop before entering or crossing a through highway and designating any intersection, as defined in 61-8-102, as a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections;

(7) restricting the use of highways as authorized in 61-10-128(2);

(8) regulating the operation of bicycles *or mopeds*, as defined in 61-8-102, and requiring the registration and licensing of bicycles *or mopeds*, including requiring a registration fee;

(9) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

(10) altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8;

(11) regulating the operating of a vehicle by a person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree that renders the person incapable of safely operating a vehicle within the incorporated limits of any city or town;

(12) regulating or prohibiting a person who is under the influence of intoxicating liquor from operating or being in actual physical control of a vehicle within the incorporated limits of a city or town;

(13) regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for the safety of persons or property within the incorporated limits of a city or town;

(14) enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic, pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and enforcing the ordinances;

(15) regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and highways; and

(16) regulating the operation of golf carts on streets and highways."

Approved April 30, 2015

CHAPTER NO. 375

[HB 506]

AN ACT REVISING DISTILLERY LAWS TO ALLOW A DISTILLERY TO SELL ITS PRODUCT DIRECTLY TO AN AGENCY LIQUOR STORE; AMENDING SECTION 16-4-311, MCA; AND PROVIDING DELAYED EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-311, MCA, is amended to read:

"16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312.

(2) An agricultural producer or association of agricultural producers or legal agents who manufacture and convert agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than

human consumption are not required to obtain a distillery license from the department.

(3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees to deliver the product. The amount of product delivered may not be less than a case. The department shall create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency liquor stores must be invoiced by the department for product received from a distillery.

(b) A distillery delivering its product pursuant to this subsection (3) must maintain records of each delivery, subject to inspection by the department.

(c) The department shall pay the distillery for any product delivered to an agency liquor store:

(i) the current freight rate; and

(ii) the distiller's current quoted price per case."

Section 2. Effective dates. (1) Except as provided in subsection (2), [this act] is effective January 1, 2016.

(2) [Section 1(3)(c)(i)] is effective July 1, 2018.

Approved April 30, 2015

CHAPTER NO. 376

[HB 612]

AN ACT ESTABLISHING A CHILD ABUSE COURT DIVERSION PILOT PROJECT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-1-702 AND 41-3-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Child abuse court diversion pilot project. (1) There is a child abuse court diversion pilot project. The purpose of the pilot project is to use meetings facilitated by a court diversion officer to informally resolve cases, prior to the filing of an abuse and neglect petition under Title 41, chapter 3, part 4, in which the department has exercised emergency protective services pursuant to 41-3-301 and has removed a child from the custody of a parent, guardian, or other person having physical or legal custody of the child.

(2) (a) The office of the court administrator provided for in Title 3, chapter 1, part 7, shall administer the pilot project, including:

(i) selecting three judicial districts in which to implement the pilot project;

(ii) hiring court diversion officers to staff a pilot project in each of the selected judicial districts; and

(iii) establishing and measuring performance benchmarks.

(b) The office of the court administrator shall report to the law and justice interim committee regarding the administration and performance of the pilot project.

(3) (a) (i) Within 2 working days of an emergency removal pursuant to 41-3-301 of a child from a parent, guardian, or other person having physical or legal custody of the child, the department and the parent, guardian, or other person having physical or legal custody of the child from whom the child was removed may, if the requirements of subsection (3)(a)(ii) are met, enter into a

written agreement to participate in the pilot project for a period of not more than 6 months from the date of the emergency removal. Execution of the agreement suspends the requirements provided in 41-3-301(6) for a period of not more than 6 months. A party to the agreement may terminate the agreement at any time.

(ii) Before a person may enter into a written agreement to participate in the pilot project, the person must be informed in writing of the person's rights, including advisement on the person's rights if the person voluntarily participates in the pilot project or chooses not to participate in the pilot project, and must sign and acknowledge that the person fully understands the person's rights and voluntarily agrees to participate in the pilot project.

(b) Within 15 working days of executing the agreement, the parties shall meet with the court diversion officer and the officer shall approve:

(i) an ongoing out-of-home placement of the child for a period of not more than 6 months from the date of the emergency removal; and

(ii) any other terms or conditions agreed to by the parties, including referrals to other service providers, that would allow the child to safely return to the home within the time period covered by the agreement.

(c) If an agreement approved by the court diversion officer under this subsection (3) is not successfully completed or if reunification of the child with the parent, guardian, or other person having physical or legal custody of the child will not occur before the agreement expires, the department shall terminate the agreement and initiate the process for filing a petition for child abuse and neglect under Title 41, chapter 3, part 4. The social worker shall submit an affidavit regarding the circumstances of the emergency removal and a copy of the agreement to the county attorney within 10 working days of the termination of the agreement.

(d) An audio recording must be made of each meeting that a court diversion officer has with the parties.

(4) A party involved in the pilot project does not have a right to counsel prior to the filing of an abuse and neglect petition.

(5) A court may consider any services that are provided as part of the pilot project when making findings required under Title 41, chapter 3, parts 4 and 6.

Section 2. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as

expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in [section 1];

~~(7)~~*(8)* administer the judicial branch personnel plan; and

~~(8)~~*(9)* perform other duties that the supreme court may assign."

Section 3. Section 41-3-301, MCA, is amended to read:

"41-3-301. Emergency protective service. (1) Any child protective social worker of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the social worker concerning emergency protective services.

(2) If a social worker of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) ~~If~~ *Except as provided in [section 1], if* a child is removed from the child's home by the department, a child protective social worker shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the social worker shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 4. Appropriation. There is appropriated $300,000 from the state general fund to the office of the court administrator for the biennium beginning July 1, 2015, for the purpose of administering the child abuse court diversion pilot project described in [section 1].

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 3, and the provisions of Title 41, chapter 3, part 3, apply to [section 1].

Section 6. Effective date. [This act] is effective July 1, 2015.

Section 7. Termination. [This act] terminates June 30, 2017.

Approved April 30, 2015

CHAPTER NO. 377

[SB 234]

AN ACT AMENDING PREMIUM TAX RATES AND FILING FEES FOR CASUALTY INSURERS OFFERING POLICIES OF LEGAL PROFESSIONAL LIABILITY INSURANCE; AMENDING SECTIONS 33-2-705, 33-2-708, AND 33-27-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, the application of Montana's premium tax rate of 2.75% and licensing fee of $1,900, together with the application of other states' retaliatory tax, fees, and licensing laws, unnecessarily impedes the growth and financial stability of Montana-domiciled legal professional liability insurers by requiring

these Montana-domiciled insurers to pay higher taxes and fees to another state under the laws of the other state; and

WHEREAS, the imposition by other states of higher taxes and fees on Montana-domiciled legal professional liability insurers than are applied to those states' own domestic insurance companies that do business in their state unfairly discriminates against and hinders the growth and stability of these Montana-domiciled legal professional liability insurers and is contrary to the best interests of Montana; and

WHEREAS, the purpose of this act is to aid in the protection, growth, and stability of Montana-domiciled legal professional liability insurers that have a principal business office located in Montana and employ Montana residents but that derive substantial net direct premiums on account of policies covering subjects or risks located, resident, or to be performed in states or jurisdictions outside of Montana; and

WHEREAS, the state of Montana will benefit by supporting the growth and stability of Montana-domiciled legal professional liability insurance companies that have a principal business office located in Montana, employ Montana residents, and issue legal professional liability insurance in Montana and other states and jurisdictions.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-705, MCA, is amended to read:

"33-2-705. Report on premiums and other consideration — tax. (1) Each authorized insurer and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from the total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to the policies. As to title insurance, "premium" includes the total charge for the insurance. A deduction may not be made of the cash surrender values of policies. Considerations received on annuity contracts may not be included in total direct premium income and are not subject to tax.

(2) *(a) Except as provided in subsection (2)(b),* ~~Coincident~~ *coincident* with the filing of the tax report referred to in subsection (1)~~,~~ *, and subject to 33-2-709,* each insurer shall pay to the commissioner a tax ~~upon~~ *on* the net premiums computed at the rate of ~~2 3/4%~~ *2.75%*.

(b) All casualty insurers issuing policies of legal professional liability insurance pursuant to 33-1-206 shall pay to the commissioner a tax on the net

premiums derived from legal professional liability insurance computed at a rate of 0.75%.

(3) That portion of the tax paid under this section by an insurer on account of premiums received for fire insurance must be separately specified in the report required by the commissioner for apportionment as provided by law. When insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the coverage as must be stated in the report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers, the premium tax provided by this section must be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer that fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose ~~upon~~ *on* an insurer who fails to pay the tax required under this section a fine of $100 plus interest on the delinquent amount at the annual interest rate of 12%.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which tax liability is accrued."

Section 2. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2) *and subsection (5) of this section*, the commissioner shall collect a fee of $1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) biennial renewal of license, $50;

(C) lapsed license reinstatement fee, $100;

(ii) resident insurance producer's license lapsed license reinstatement fee, $100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, $50;

(B) biennial renewal of license, $100;

(C) lapsed license reinstatement fee, $200;

(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, $100;

(B) quarterly filing fee, $25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), $50;

(ix) navigator certification:

(A) application for original certification, including issuance of certificate if issued, $100;

(B) biennial renewal of certification, $50;

(C) lapsed certification reinstatement fee, $100;

(x) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of $75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than $1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.

(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of $10 will be refunded.

(5) The commissioner shall collect a licensing fee of $500 for casualty insurance companies issuing policies of legal professional liability insurance pursuant to 33-1-206."

Section 3. Section 33-27-118, MCA, is amended to read:

"33-27-118. Taxation of independent liability fund contributions. The net value of independent liability fund contributions for any given fiscal year is taxed in accordance with 33-2-705(2)*(a)*."

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014.

Approved April 30, 2015

CHAPTER NO. 378

[SB 325]

AN ACT REVISING THE BOARD OF ENVIRONMENTAL REVIEW PROCESS FOR ADOPTING WATER QUALITY REGULATIONS MORE STRINGENT THAN FEDERAL REGULATIONS; REVISING IMPLEMENTATION OF WATER QUALITY STANDARDS THAT ARE PURER THAN A NATURAL CONDITION OF A WATERCOURSE OR WATER SOURCE; REVISING THE PROCESS FOR RECLASSIFYING WATER QUALITY STANDARDS; REVISING THE PROCESS FOR ADOPTING SITE-SPECIFIC WATER QUALITY STANDARDS; PROVIDING A DEFINITION; AMENDING SECTION 75-5-203, MCA; AND REPEALING SECTION 75-5-309, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. State regulation for natural conditions. (1) The department may not apply a standard to a water body for water quality that is more stringent than the nonanthropogenic condition of the water body. For the parameters for which the applicable standards are more stringent than the nonanthropogenic condition, the standard is the nonanthropogenic condition of the parameter in the water body. The department shall implement the standard in a manner that provides for the water quality standards for downstream waters to be attained and maintained.

(2) (a) For water bodies where the standard is more stringent than the condition of the water body but subsection (1) is not applicable, the board shall adopt rules consistent with comparable federal rules and guidelines providing criteria and procedures for the department to issue variances from standards if:

(i) the condition cannot reasonably be expected to be remediated during the permit term for which the application for variance has been received; and

(ii) the discharge to which the variance applies would not materially contribute to the condition.

(b) A variance issued pursuant to subsection (2)(a) must be reviewed every 5 years and may be modified or terminated as a result of the review.

Section 2. Section 75-5-203, MCA, is amended to read:

"75-5-203. State regulations no more stringent than federal regulations or guidelines. (1) ~~After April 14, 1995, except~~ *Except* as provided in subsections (2) through (5) or unless required by state law, the board may not adopt a rule to implement ~~this chapter~~ *75-5-301, 75-5-302, 75-5-303, or 75-5-310* that is more stringent than the comparable federal regulations or guidelines that address the same circumstances. The board may incorporate by reference comparable federal regulations or guidelines.

(2) The board may adopt a rule to implement this chapter that is more stringent than comparable federal regulations or guidelines only if the board makes a written finding after a public hearing and public comment and based on evidence in the record that:

(a) the proposed state standard or requirement protects public health or the environment of the state; and

(b) the state standard or requirement to be imposed ~~can~~ *can* mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference ~~information and~~ *pertinent, ascertainable, and* peer-reviewed scientific studies contained in the record that forms the basis for the board's conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed state standard or requirement.

(4) (a) A person affected by a rule of the board ~~adopted after January 1, 1990, and before April 14, 1995,~~ that that person believes to be more stringent than comparable federal regulations or guidelines may petition the board to review the rule. If the board determines that the rule is more stringent than comparable federal regulations or guidelines, the board shall comply with this section by either revising the rule to conform to the federal regulations or guidelines or by making the written finding, as provided under subsection (2), within a reasonable period of time, not to exceed ~~12~~ *8* months after receiving the petition. A petition under this section does not relieve the petitioner of the duty to comply with the challenged rule. The board may charge a petition filing fee in an amount not to exceed $250.

(b) A person may also petition the board for a rule review under subsection (4)(a) if the board adopts a rule ~~after January 1, 1990,~~ in an area in which no federal regulations or guidelines existed and the federal government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted board rule.

(5) This section does not apply to a rule adopted under the emergency rulemaking provisions of 2-4-303(1)."

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

75-5-309. Standards more stringent than federal standards.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 1].

Approved April 30, 2015

CHAPTER NO. 379

[SB 345]

AN ACT REVISING THE PROCESS OF ADOPTION OR AMENDMENT OF ACCREDITATION STANDARDS FOR SCHOOLS; MAKING REQUIREMENTS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION; CLARIFYING THE ROLE OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE; AMENDING SECTIONS 20-3-106 AND 20-7-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools — powers and duties. The superintendent of public instruction has the general supervision of the public

schools and districts of the state and shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

(5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(6) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(7) establish a system of communication for calculating joint district revenue in accordance with the provisions of 20-9-151;

(8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

(9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(10) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(12) distribute BASE aid and special education allowable cost payments in support of the BASE funding program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

(13) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(15) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(17) recommend standards of accreditation for all schools to the board of public education *in accordance with the provisions of 20-7-101;* ~~and~~

(18) evaluate compliance with the *accreditation* standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of ~~20-7-101 and~~ 20-7-102;

~~(18)~~*(19)* collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

~~(19)~~*(20)* establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

~~(20)~~*(21)* license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

~~(21)~~*(22)* as the governing agent and executive officer of the state of Montana for K-12 career and vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

~~(22)~~*(23)* supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

~~(23)~~*(24)* administer the traffic education program in accordance with the provisions of 20-7-502;

~~(24)~~*(25)* administer the school food services program in accordance with the provisions of 20-10-201 through 20-10-203;

~~(25)~~*(26)* review school building plans and specifications in accordance with the provisions of 20-6-622;

~~(26)~~*(27)* provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for the board of public education and the legislature;

~~(27)~~*(28)* upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties all school district student assessment data for a test required by the board of public education;

~~(28)~~*(29)* administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369; and

~~(29)~~*(30)* perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 2. Section 20-7-101, MCA, is amended to read:

"20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction. *The superintendent shall develop recommendations in accordance with subsection (2). The recommendations presented to the board must include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated rulemaking committee under subsection (2).*

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

(a) school district trustees;

(b) school administrators;

(c) teachers;

(d) school business officials;

(e) parents; and

(f) taxpayers.

~~(2)~~*(3)* Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal*, including the economic impact statement required under subsection (1),* to the education and local government interim committee for review *at least 1 month in advance of a scheduled committee meeting*. ~~The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.~~

~~(3)~~*(4)* ~~If~~ *Unless* the ~~fiscal analysis of~~ *expenditures by school districts required under* the proposal ~~is found~~ *are determined* by the ~~legislative fiscal division~~ *education and local government interim committee* to ~~have a substantial fiscal impact~~ *be insubstantial expenditures that can be readily absorbed into the budgets of existing district programs*, the board may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. ~~A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.~~

~~(4)~~*(5)* Standards for the retention of school records must be as provided in 20-1-212."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 30, 2015

CHAPTER NO. 380

[HB 223]

AN ACT REVISING DEATH CERTIFICATE FEES AND PROVIDING FOR THEIR USE AS A FUNDING SOURCE FOR THE BOARD OF FUNERAL SERVICE; REQUIRING THE BOARD TO REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; AMENDING SECTIONS 7-4-2631 AND 50-15-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Funding from death certificate fees — uses. (1) The department shall deposit into the state special revenue fund for use by the board $3 of the fee received for each certified copy of a death certificate and each additional certified copy of a death certificate issued by a county under 7-4-2631 or the department of public health and human services under 50-15-111 and each informational copy of a death certificate issued by the department of public health and human services.

(2) The revenue received by the board under subsection (1) must be used by the board for general administration of the board.

(3) The board may not reduce license fees.

(4) (a) The balance in the state special revenue fund may be no more than the total of the income generated by licensing fees plus an equivalent amount from income generated by the death certificate fees deposited under subsection (1).

(b) Any amount of income generated by the death certificate fees that is greater than the amount in subsection (4)(a) must be deposited in the state

general fund upon certification by the department that additional funds are not needed for special circumstances as provided in 17-2-302(2).

(5) In even-numbered calendar years, beginning in July 2016, the board shall report to the economic affairs interim committee the status of the special revenue account and fees charged as a funding source for the board.

Section 2. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, $5;

(b) for filing of subdivision and townsite plats, $10 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments ~~thereto~~ *to the certificates of surveys*, $25 plus 50 cents ~~per~~ *for each* tract or lot;

(d) for each page of a document required to be recorded with a subdivision, townsite plat, or certificate of survey, $1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, $2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, $3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, $2;

(l) *(i)* for each certified copy of a birth certificate, $5~~, and~~*;*

(ii) for each certified copy of a death certificate, ~~$3;~~ *$15, and for each additional certified copy of the same record ordered at the same time as the first certified copy, $6; and*

(iii) for the filing of an original death certificate, an amount, if any, to be determined by the county by resolution and deposited in the county general fund;

(m) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis.

(4) (a) A county shall transfer to the department of labor and industry for deposit as provided in [section 1] $3 of each fee collected under subsection (1)(l)(ii) of this section.

(b) The fees must be transferred monthly unless the department of labor and industry and the county have agreed to a different period."

Section 3. Section 50-15-111, MCA, is amended to read:

"50-15-111. Certified copy fee — *exceptions — transfer.* (1) ~~The~~ *Subject to a minimum charge required by subsection (1)(a)(ii), the* department shall prescribe, by rule, a fee for:

(a) *(i)* a certified copy of certificates or records *other than a death certificate;*

(ii) a death certificate, which at a minimum must be:

(A) $15 for each certified copy of a death certificate;

(B) $8 for each additional certified copy of a death certificate requested at the same time as the first copy; and

(C) $13 for each informational copy of a death certificate;

(b) a search of files or records when a copy is not made;

(c) a copy of information provided for statistical or administrative purposes as allowed by law;

(d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, or court order;

(e) filing a delayed registration of a vital event;

(f) the amendment of a vital record, after 1 year from the date of filing; and

(g) other services specified by this chapter or by rule.

(2) ~~Fees~~ *Except as provided in subsection (3), fees* received under subsection (1) must be deposited in the state special revenue fund to be used by the department for:

(a) the maintenance of indexes to vital records;

(b) the preservation of vital records; and

(c) the administration of the system of vital statistics.

(3) The department shall transfer to the department of labor and industry for use as specified in [section 1] $3 of each fee charged under subsection (1)(a)(ii) of this section."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 19, part 2, and the provisions of Title 37, chapter 19, part 2, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Termination. [This act] terminates June 30, 2017.

Approved May 4, 2015

CHAPTER NO. 381

[HB 517]

AN ACT REVISING LAWS RELATING TO GUARDIANSHIP; REVISING LAWS RELATING TO THE COMMITMENT OF INCAPACITATED PERSONS; PROVIDING ADMISSION ALTERNATIVES FOR INCAPACITATED PERSONS WITH CERTAIN CONDITIONS; AMENDING SECTIONS 72-5-321 AND 72-5-324, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-5-321, MCA, is amended to read:

"72-5-321. Powers and duties of guardian of incapacitated person. (1) The powers and duties of a limited guardian are those specified in the order appointing the guardian. The limited guardian is required to report the condition of the incapacitated person and of the estate that has been subject to the guardian's possession and control, as required by the court or by court rule.

(2) A full guardian of an incapacitated person has the same powers, rights, and duties respecting the ward that a parent has respecting an unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular and without qualifying the foregoing, a full guardian has the following powers and duties, except as limited by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the full guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within or outside of this state.

(b) If entitled to custody of the ward, the full guardian shall make provision for the care, comfort, and maintenance of the ward and whenever appropriate arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the full guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service. This subsection (2)(c) does not authorize a full guardian to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order if the full guardian does not have authority to consent pursuant to the Montana Rights of the Terminally Ill Act, Title 50, chapter 9, or to the do not resuscitate provisions of Title 50, chapter 10. A full guardian may petition the court for authority to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order. The court may not grant that authority if it conflicts with the ward's wishes to the extent that those wishes can be determined. To determine the ward's wishes, the court shall determine by a preponderance of evidence if the ward's substituted judgment, as applied to the ward's current circumstances, conflicts with the withholding or withdrawal of life-sustaining treatment or a do not resuscitate order.

(d) If a conservator for the estate of the ward has not been appointed, a full guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that person's duty;

(ii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward. However, the full guardian may not use funds from the ward's estate for room and board that the full guardian, the full guardian's spouse, parent, or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the incompetent ward, if notice is possible. The full guardian must exercise care to conserve any excess for the ward's needs.

(e) Unless waived by the court, a full guardian is required to report the condition of the ward and of the estate which has been subject to the full guardian's possession or control annually for the preceding year. A copy of the report must be served upon the ward's parent, child, or sibling if that person has made an effective request under 72-5-318.

(f) If a conservator has been appointed, all of the ward's estate received by the full guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this chapter, and the full guardian must account to the conservator for funds expended.

(3) Upon failure, as determined by the clerk of court, of the guardian to file an annual report, the court shall order the guardian to file the report and give good cause for the guardian's failure to file a timely report.

(4) Any full guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward. A limited guardian of a person for whom a conservator has been appointed shall control those aspects of the custody and care of the ward over which the limited guardian is given authority by the order establishing the limited guardianship. The full guardian or limited guardian is entitled to receive reasonable sums for the guardian's services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The full guardian or limited guardian authorized to oversee the incapacitated person's care may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(5) ~~A~~ *Except as provided in subsection (6), a* full guardian or limited guardian may not involuntarily commit for mental health treatment or for treatment of a developmental disability or for observation or evaluation a ward who is unwilling or unable to give informed consent to commitment, except as provided in 72-5-322, unless the procedures for involuntary commitment set forth in Title 53, chapters 20 and 21, are followed. This chapter does not abrogate any of the rights of mentally disabled persons provided for in Title 53, chapters 20 and 21.

(6) (a) If the court has found that a ward has a primary diagnosis of a major neurocognitive disorder, as defined in the fifth edition of the diagnostic and statistical manual of mental disorders adopted by the American psychiatric association, and because of this disorder the ward is unwilling or unable to give informed consent to treatment, a full guardian or limited guardian may seek admission of the ward for stabilization and treatment to a hospital, skilled nursing facility, or another appropriate treatment facility other than the Montana state hospital.

(b) If the ward is admitted to the Montana mental health nursing care center, the court shall review every 90 days whether the Montana mental health nursing care center is the appropriate placement for the ward or whether a less restrictive alternative placement exists.

~~(6)~~*(7)* Upon the death of a full guardian's or limited guardian's ward, the full guardian or limited guardian, upon an order of the court and if there is no personal representative authorized to do so, may make necessary arrangements for the removal, transportation, and final disposition of the ward's physical remains, including burial, entombment, or cremation, and for the receipt and disposition of the ward's clothing, furniture, and other personal effects that may be in the possession of the person in charge of the ward's care, comfort, and maintenance at the time of the ward's death."

Section 2. Section 72-5-324, MCA, is amended to read:

"72-5-324. Termination of appointment — how effected — certain liabilities and obligations not affected. (1) (a) Except as provided in subsection (1)(b), the authority and responsibility of a guardian for an incapacitated person terminates upon the death of the guardian or ward, the determination of incapacity of the guardian, or upon removal or resignation as provided in 72-5-325. Testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding.

(b) The guardian's authority and responsibility for an incapacitated person who dies while the person is a ward of the guardian terminate when the guardian has completed arrangements for the final disposition of the ward's physical remains and personal effects, as provided in 72-5-321~~(6)~~*(7)*.

(2) Termination does not affect the guardian's liability for prior acts or the guardian's obligation to account for funds and assets of the ward."

Section 3. Effective date. [This act] is effective January 1, 2016.

Approved May 4, 2015

CHAPTER NO. 382

[HB 577]

AN ACT REVISING PROVISIONS RELATED TO RACE MEET GAMBLING; DEFINING THE TERM "MONTANA WAGER" WITH RESPECT TO PARIMUTUEL BETTING ON RACE MEETS; SPECIFYING THAT ACCEPTING A MONTANA WAGER WITHOUT A MONTANA LICENSE IS UNLAWFUL AND PUNISHABLE AS AN ILLEGAL GAMBLING ENTERPRISE; AND AMENDING SECTIONS 23-4-101 AND 23-4-301, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-4-101, MCA, is amended to read:

"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advance deposit wagering" means a form of parimutuel wagering in which a person deposits money in an account with an advance deposit wagering hub operator licensed by the board to conduct advance deposit wagering. The money is used to pay for parimutuel wagers made in person, by telephone, or through a communication by other electronic means on horse or greyhound races held in or outside this state.

(2) "Advance deposit wagering hub operator" means a simulcast and interactive wagering hub business licensed by the board that, through a subscriber-based service located in this or another state, conducts parimutuel wagering on the races that it simulcasts and on other races that it carries in its wagering menu and that uses a computer that registers bets and divides the total amount bet among those who won.

(3) "Board" means the board of horseracing provided for in 2-15-1809.

(4) "Board of stewards" means a board composed of three stewards who supervise race meets.

(5) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(6) "Fantasy sports league" has the meaning provided in 23-5-801.

(7) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter who have a permanent or continuous residence in the household of the official or licensee and all other persons who have a permanent or continuous residence in the household of the official or licensee.

(8) "Match bronc ride" means a saddle bronc riding contest consisting of two sections known as a "long go" and a "short go" in which the win, place, and show winners are determined by judges of the rides for each go.

(9) "Minor" means a person under 18 years of age.

(10) "Montana wager" means a parimutuel wager that is placed at a race track in Montana or on a race being conducted in Montana or any parimutuel wager placed by a Montana resident on a race conducted outside of Montana.

~~(10)~~*(11)* "Parimutuel facility" means a facility licensed by the board at which fantasy sports leagues are conducted and wagering on the outcome under a parimutuel system is permitted.

~~(11)~~*(12)* "Parimutuel network" means an association licensed by the board to compile and distribute fantasy sports league rosters and weekly point totals for licensed parimutuel facilities and to manage statewide parimutuel wagering pools on fantasy sports leagues.

~~(12)~~*(13)* "Persons" means individuals, firms, corporations, fair boards, and associations.

~~(13)~~*(14)* (a) "Race meet" means racing of registered horses or mules, match bronc rides, and wild horse rides at which the parimutuel system of wagering is used. The term includes horseraces, mule races, and greyhound races that are simulcast.

(b) The term does not include live greyhound racing.

~~(14)~~*(15)* "Racing" means live racing of registered horses or mules and simulcast racing of horses, mules, and greyhounds.

~~(15)~~*(16)* "Simulcast" means a live broadcast of an actual horserace, mule race, or greyhound race at the time it is run. The term includes races of local or national prominence.

~~(16)~~*(17)* "Simulcast facility" means a facility at which horseraces, mule races, or greyhound races are simulcast and wagering on the outcome is permitted under the parimutuel system.

~~(17)~~*(18)* "Simulcast parimutuel network" means an association that has contracted with the board to receive or originate intrastate and interstate simulcast race signals, relay the race signals to licensed simulcast facilities, and manage statewide parimutuel wagering pools on simulcast races or has been licensed by the board to operate a statewide parimutuel wagering pool for fantasy sports leagues. The board may act as a simulcast parimutuel network provider with respect to simulcast races.

~~(18)~~*(19)* "Source market fee" means the portion of a wager made with a licensed advance deposit wagering hub operator by a Montana resident that is paid to the board.

~~(19)~~*(20)* "Steward" means an official hired by the department and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.

~~(20)~~*(21)* "Wild horse ride" means a wild horse riding contest in which three-person teams attempt to saddle a wild horse and ride it completely around a track with the first to do so declared the winner."

Section 2. Section 23-4-301, MCA, is amended to read:

"23-4-301. Parimutuel betting — other betting illegal — *penalty*. (1) It is unlawful to make, report, record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside this state, except under 23-5-502 or this chapter.

(2) A licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted under this chapter and the rules of the board.

(3) A person licensed under this chapter to hold a race meet may simulcast live races at a place in the race meet grounds or simulcast facility where the licensee may conduct or supervise the use of the parimutuel system by patrons on the results of simulcast races approved by the board.

(4) It is unlawful to conduct pool selling or bookmaking or to circulate handbooks or to bet or wager on a race of a licensed race meet, other than by the parimutuel system and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system.

(5) Each licensee conducting a parimutuel system for an intrastate simulcast race meet shall combine the parimutuel pools at a simulcast facility with those at the actual racing facility for the purpose of determining the odds and computing payoffs. The amount of the handle at the simulcast race meet must be combined with the amount of the parimutuel handle at the live racing facility for the purposes of distribution of money derived from parimutuel betting under 23-4-302 and 23-4-304.

(6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing associations that do not conduct live racing will be pooled and distributed to all tracks conducting live racing. All money must be distributed on a percentage, based on each track's percent, of the total annual on-track parimutuel handle.

(7) The board may license an advance deposit wagering hub operator to conduct advance deposit wagering. Advance deposit wagering is prohibited and illegal unless it is conducted through an advance deposit wagering hub operator licensed by the board. A licensed advance deposit wagering hub operator:

(a) may accept advance deposit wagering money for races conducted by a licensed race meet;

(b) may not accept a wager in an amount in excess of the money on deposit in the account of a person who wishes to make the wager;

(c) may not allow a person under 18 years of age to open an account with the advance deposit wagering hub operator, make a wager from an account, or otherwise have access to an account;

(d) shall include a statement in any of its advertising for advance deposit wagering that a person under 18 years of age is not allowed to participate;

(e) shall verify the identification, residence, and age of each person seeking to open an advance deposit wagering account;

(f) shall agree to pay to the board a source market fee in an amount equal to a percentage, as set forth in its license agreement, of the total amount wagered by Montana residents from their accounts with the advance deposit wagering hub operator; and

(g) shall agree to a payment schedule of source market fees as set forth in its license agreement.

(8) (a) It is unlawful for a person or organization to accept a Montana wager without being licensed by the state of Montana as provided in this chapter.

(b) A violation of subsection (8)(a) is an illegal gambling enterprise, as defined in 23-5-112, and is punishable as provided by law.

~~(8)~~*(9)* It is unlawful to:

(a) conduct pool selling or bookmaking or to wager on a fantasy sports league other than by the parimutuel system and by being physically present at the licensed parimutuel facility;

(b) permit a minor to use the parimutuel system; or

(c) conduct internet or telephone wagering on fantasy sports leagues."

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 4, 2015

CHAPTER NO. 383

[HB 590]

AN ACT PROVIDING A MEANS TO COMPENSATE FOR THE STORAGE OF WATER BEHIND LIBBY DAM, WHICH WAS CREATED THROUGH THE COLUMBIA RIVER TREATY; CREATING THE COLUMBIA RIVER TREATY ACCOUNT; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER THE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING FOR A TRANSFER TO THE GENERAL FUND; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE.

WHEREAS, Libby Dam, located in Lincoln County, Montana, is the fourth dam constructed under the Columbia River Treaty, which the Canadian government and the United States government entered into in 1964, and is located on the Kootenai River, which is the third largest tributary to the Columbia River and contributes almost 20% of the total water in the lower Columbia River; and

WHEREAS, Libby Dam was dedicated on August 24, 1975, and spans the Kootenai River 17 miles upstream from the town of Libby, Montana; and

WHEREAS, Lake Koocanusa, the reservoir behind Libby Dam, extends 90 miles north of the dam, with 48 miles of Lake Koocanusa located in Lincoln County and the remainder in British Columbia, Canada; and

WHEREAS, Libby Dam, in Montana's northwest corner, and three dams in Canada were constructed to protect downstream areas from flooding, and Libby Dam holds back an average of 5,800,000 acre-feet of water; and

WHEREAS, economic benefits have been derived from the storage of these floodwaters and the coordinated, timely release of those waters through generation of electricity, irrigation, navigation, and recreation; and

WHEREAS, the construction of Libby Dam placed many thousands of acres of land in Lincoln County underwater, leading to decreased real property tax revenues for the county and a loss of timber sales and wildlife and fish habitat, among other losses; and

WHEREAS, the Canadian government was compensated for construction of the dams and storage of floodwaters through a sharing of dollars on electricity from additional power generated at downstream dams and hydropower generating facilities, leading to the formation of the Columbia Basin Trust; and

WHEREAS, citizens of Lincoln County did not participate in the negotiations for the terms of the Columbia River Treaty and no compensation has been received by Lincoln County; and

WHEREAS, the renegotiation of the treaty is currently being considered, and there is a possibility that compensation could be provided to Lincoln County as a result of federal legislation, litigation, determination of regulations, and the renegotiation of the treaty; and

WHEREAS, the purpose of this legislation is to address how, if the compensation is paid directly to the state instead of to Lincoln County, the compensation should be distributed.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Columbia River treaty" or "treaty" means the Columbia River treaty between Canada and the United States relating to cooperative development of the water resources of the Columbia River basin.

(2) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

Section 2. Columbia River treaty account — use. (1) There is an account within the state special revenue fund provided for in 17-2-102 called the Columbia River treaty account. The department of natural resources and conservation shall administer the account.

(2) The Columbia River treaty account must be used to:

(a) disburse funds to Lincoln County to compensate the county for storage of floodwaters and general river flow, which provides protection of life and property downstream as well as considerable economic benefit over a broad region; and

(b) transfer funds to the state general fund pursuant to subsection (4)(b).

(3) Any money received by the state related to the Columbia River treaty must be deposited in the account.

(4) (a) No later than July 15 following the close of the preceding fiscal year, the department must distribute to Lincoln County 80% of all funds deposited into the account during the preceding fiscal year.

(b) The department must transfer the remaining funds deposited into the account during the preceding fiscal year to the state general fund.

(5) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department for the purposes provided in subsection (2).

(6) Lincoln County must use the funds received from the account for schools, roads, general operations, and to establish a trust fund with the interest made available for projects and programs that promote social, economic, and environmental well-being in Lincoln County.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; *[section 2];* 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 85, and the provisions of Title 85 apply to [sections 1 through 3].

Section 5. Effective date — contingency. [This act] is effective when the state receives money from Bonneville Power Administration, the United States federal government, BC Hydro, the British Columbia provincial government, or the federal government of Canada or from another entity that benefits from the waters stored in Lincoln County through irrigation, navigation, recreation, hydropower generation, or other uses.

Approved May 4, 2015

CHAPTER NO. 384

[HB 604]

AN ACT REQUIRING COLLECTION OF INFORMATION AND REPORTING BY THE DEPARTMENT OF TRANSPORTATION ON TRAILS AND PATHS CREATED UNDER THE MONTANA FOOTPATH AND BICYCLE TRAIL ACT OF 1975; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Inventory of trails and paths — maintenance — report to legislature. The department of transportation shall:

(1) compile an inventory of all multiuse trails or other paths within state-maintained federal-aid highway rights-of-way that are separated from motorized vehicular traffic by open spaces, pavement, markings, or barriers and that are usable for transportation purposes by pedestrians, runners, bicyclists, skaters, equestrians, and other nonmotorized users;

(2) develop a plan for maintaining and repairing the trails and other paths described in subsection (1), including estimated costs for maintenance and repair; and

(3) provide a report of the inventory and maintenance plan to the revenue and transportation interim committee and to the 65th legislature.

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Termination. [This act] terminates May 1, 2017.

Approved May 4, 2015

CHAPTER NO. 385

[HB 617]

AN ACT ESTABLISHING THE MONTANA STEM SCHOLARSHIP PROGRAM; PROVIDING ELIGIBILITY REQUIREMENTS; CREATING THE MONTANA STEM SCHOLARSHIP PROGRAM STATE SPECIAL REVENUE ACCOUNT; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-26-601, 20-26-602, 20-26-603, 20-26-605, 20-26-606, 23-7-102, 23-7-202, AND 23-7-402, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Montana Lottery was originally created by the voters of Montana in 1986 to have its proceeds be used for educational purposes; and

WHEREAS, this legislation is an effort to restore the will of the Montana electorate; and

WHEREAS, initiating merit-based higher education opportunities for the youth of Montana in areas of science, technology, engineering, and mathematics will steer those students toward living-wage jobs in the Montana marketplace that tend to be readily available; and

WHEREAS, the Montana Lottery is encouraged to develop and implement program and marketing strategies to grow the STEM scholarship fund to at least $5 million per year.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana STEM scholarship program. (1) There is a Montana STEM scholarship program. The program is administered by the board through the office of the commissioner of higher education.

(2) The purpose of the Montana STEM scholarship program is to provide an incentive for Montana high school students to prepare for, enter into, and complete degrees in postsecondary fields related to science, technology, engineering, mathematics, and health care, with the goal of increasing the number of STEM degree recipients participating in Montana's workforce.

(3) The board shall adopt policies and procedures for the administration of the Montana STEM scholarship program consistent with [sections 1 through 4].

Section 2. Eligibility requirements — ineligibility. (1) To be eligible for the Montana STEM scholarship, a student must:

(a) be a Montana resident who graduated from a Montana high school with a cumulative grade point average of at least 3.25;

(b) be eligible for in-state tuition pursuant to the board's policies;

(c) have completed a rigorous college preparation program, including 4 years of mathematics and 3 years of science;

(d) be enrolled full time in at least 15 credit hours at a postsecondary institution in the fall semester immediately following the student's graduation from high school;

(e) be seeking the student's first certificate or 2-year or 4-year degree at a postsecondary institution; and

(f) have declared a STEM or health care major as the student's intended course of study.

(2) A student is ineligible for the Montana STEM scholarship if the student:

(a) has failed to meet the federal Title IV selective service registration requirements;

(b) is in default on a Title IV or state of Montana educational loan or owes a refund to a federal Title IV or state of Montana student financial aid program; or

(c) is incarcerated. A student may receive a Montana STEM scholarship upon release if the student meets all other eligibility requirements.

Section 3. STEM scholarship amounts — renewal requirements. (1) A student who meets the requirements of [section 2] will receive a $1,000 scholarship for the first academic year the student is enrolled at a postsecondary institution.

(2) A student who meets the requirements of this subsection will receive a $2,000 scholarship for the student's second academic year. To be eligible for the STEM scholarship in the student's second academic year, the student must:

(a) have completed at least 30 credit hours in the first academic year;

(b) have maintained a grade point average of at least 3.0;

(c) be enrolled full time at the postsecondary institution in the current academic year; and

(d) continue to pursue a STEM or health care major.

(3) The board shall adopt a policy regarding the award of scholarships when the funds in the account established in [section 4] are insufficient to fully fund the STEM scholarship program. The policy must prioritize scholarships in the following order:

(a) Renewals for qualified applicants of scholarships that were previously awarded have the highest priority.

(b) If funds remain after renewal scholarships are awarded pursuant to subsection (3)(a), then the number of new scholarships must be reduced but the individual award amounts must meet the requirements of subsections (1) and (2).

Section 4. Montana STEM scholarship program state special revenue account. (1) There is a Montana STEM scholarship program account within the state special revenue fund established in 17-2-102. The purpose of the account is to fund the Montana STEM scholarship program. The account is administered by the board through the office of the commissioner of higher education.

(2) There must be paid into the account the lottery net revenues calculated pursuant to 23-7-402. Every student who is eligible under the provisions of [sections 2 and 3] must be awarded a Montana STEM scholarship.

(3) If the amount in this account is greater than the amount required to fund the scholarships as required by subsection (2), the excess funds may be carried over and used to fund scholarships in the next fiscal year.

(4) The board may use up to 1% of the funds transferred into the account in each fiscal year for costs related to administering the Montana STEM scholarship program.

(5) This account is statutorily appropriated, as provided in 17-7-502, to the board for the Montana STEM scholarship program established in [sections 1 through 3].

Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; *[section 4];* 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;

23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 6. Section 20-26-601, MCA, is amended to read:

"20-26-601. Short title. ~~This part~~ *Sections 20-26-601 through 20-26-605* may be cited as the "Governor's Postsecondary Scholarship Program"."

Section 7. Section 20-26-602, MCA, is amended to read:

"20-26-602. Governor's postsecondary scholarship program — duties of council — duties of board. (1) There is a governor's postsecondary scholarship program administered by the board through the office of the commissioner of higher education with assistance from the council.

(2) The purpose of the governor's postsecondary scholarship program is to provide scholarships on the basis of need and merit to Montana residents toward the cost of attendance at 2-year and 4-year postsecondary institutions and to allocate some of the scholarships to specific areas of study that promote economic development or address critical workforce shortage areas in Montana.

(3) The council shall gather information and make recommendations for the board to consider in the board's adoption of policies and procedures under ~~this part~~ *20-26-601 through 20-26-605*. The recommendations must attempt to promote efficient administration of the governor's postsecondary scholarship program.

(4) After consideration of the council's recommendations pursuant to subsection (3), the board shall adopt policies and procedures for administration of the governor's postsecondary scholarship program consistent with ~~this part~~ *20-26-601 through 20-26-605*.

(5) Subject to available funding, scholarships must be awarded on an annual basis to qualified recipients pursuant to policies adopted by the board. The board may delegate to Montana high schools and postsecondary institutions the authority to review scholarship applications and select scholarship recipients."

Section 8. Section 20-26-603, MCA, is amended to read:

"20-26-603. Definitions. As used in this part, the following definitions apply:

(1) "Accredited" means a school that is accredited by the board of public education pursuant to 20-7-102.

(2) "Board" means the board of regents of higher education created by Article X, section 9(2), of the Montana constitution.

(3) "Council" means the governor's postsecondary scholarship advisory council created in 2-15-1524.

(4) "Montana high school" means an accredited public or nonpublic high school.

~~(4)~~*(5)* "Montana private college" means a nonprofit private educational institution:

(a) with its main campus and primary operations located within the state; and

(b) that offers education on the level of a baccalaureate degree and is accredited for that purpose by a national or regional accrediting agency recognized by the board.

~~(5)~~*(6)* "Postsecondary institution" means:

(a) a unit of the Montana university system, as defined in 20-25-201;

(b) a Montana community college, defined and organized as provided in 20-15-101; or

(c) an accredited tribal community college located in the state of Montana.

~~(6)~~*(7)* "Scholarship" means a payment toward the cost of attendance at a qualifying postsecondary institution, rounded up to the nearest dollar.

(8) "STEM or health care major" means a major that is related to science, technology, engineering, mathematics, or health care. Specific qualifying majors are identified in board policy.

~~(7)~~*(9)* "Title IV" refers to Title IV of the Higher Education Act of 1965, as amended."

Section 9. Section 20-26-605, MCA, is amended to read:

"20-26-605. Eligibility requirements — renewals — limited appeals. (1) Scholarships must be awarded under the governor's postsecondary scholarship program in accordance with the eligibility requirements of this section and pursuant to policies and procedures established by the board pursuant to 20-26-602 and this section.

(2) To be eligible to receive a scholarship, a student must be a Montana resident eligible for in-state tuition as determined by board policy.

(3) To be eligible to receive a merit-based scholarship, a student must have attained a minimum grade point average or numerical score on a standardized college admission test as prescribed by board policy.

(4) To be eligible to receive a need-based scholarship, a student must complete the standard free application for federal student aid form and the student's expected family contributions may not exceed the cost of attendance at the postsecondary institution that the student expects to attend.

(5) Scholarships must be awarded to students seeking their first certificate or their 2-year or 4-year degree at a postsecondary institution.

(6) Scholarships may be renewed in accordance with board policy. The policy must include proof of satisfactory academic performance.

(7) Scholarships may be terminated in accordance with board policy.

(8) The board shall establish policies and procedures:

(a) to allow a student to transfer from one postsecondary institution to another without loss of the scholarship; and

(b) to ensure compliance with 20-26-606(3) if a student transfers from a postsecondary institution to a Montana private college.

(9) A scholarship recipient's right to receive other financial aid, awards, and scholarships may be limited as required by federal or state law or board policy.

(10) A student is ineligible to receive a scholarship under the ~~provisions of this part~~ *governor's postsecondary scholarship program* if the student:

(a) has been awarded a Montana university system honor scholarship;

(b) has failed to meet the federal Title IV selective service registration requirements;

(c) is in default on a Title IV or state of Montana educational loan or owes a refund to a federal Title IV or state of Montana student financial aid program; or

(d) is incarcerated. Upon release, the student may begin receiving scholarship payments if the student meets all other eligibility requirements. If approved by the board, credits earned during incarceration may be counted toward eligibility.

(11) (a) Except as provided in subsection (11)(b), scholarship awards are not subject to appeal.

(b) A student may appeal the termination of a scholarship based on extenuating circumstances in accordance with board policy."

Section 10. Section 20-26-606, MCA, is amended to read:

"20-26-606. Public and private sources of funding — restrictions on use — accounting. (1) The board may accept donations from public or private sources and shall distribute those funds in accordance with this part.

(2) Except when a donor of private funds designates that scholarship funds must be given to students attending a private college, scholarship awards are determined solely by the board or an entity designated by the board pursuant to board policy adopted under 20-26-602 *and [section 1]*.

(3) Funds from public sources may not be used to pay for scholarships for students enrolled in Montana private colleges.

(4) Funds from private sources must be deposited into an account in the state special revenue fund established in 17-2-102 to pay for scholarships for students enrolled in postsecondary institutions or, when designated by the donor, in Montana private colleges.

(5) Each postsecondary institution or Montana private college that receives scholarship payments shall prepare and submit to the board, in accordance with procedures and policies established by the board, a report of the postsecondary

institution's or Montana private college's administration of the scholarships and a complete accounting of scholarship funds.

(6) Funds from a scholarship may not be used to pay for remedial or college-preparatory course work.

(7) Except for funds donated from private sources, the obligation for funding the governor's postsecondary scholarship program is an obligation of the state. This section may not be construed to require the board to provide scholarships to an eligible student without an appropriation to the board for the purposes of ~~this part~~ *the governor's postsecondary scholarship program*. Funds from private sources may not be used as an offset to general fund appropriations."

Section 11. Section 23-7-102, MCA, is amended to read:

"23-7-102. ~~Purpose~~ *Purpose*. ~~(1)~~*(1)* The purpose of this chapter is to allow lottery games in which the player purchases from the state, through the administrators of the state lottery, a chance to win a prize. This chapter does not allow and may not be construed to allow any game in which a player competes against or plays with any other person, including a person employed by an establishment in which a lottery game may be played. *The state lottery may provide products sold only through an authorized lottery device at the location of a lottery ticket or chance sales agent licensed by the director.*

~~(2)~~*(2)* The administration and construction of this chapter must comply with Article III, section 9, of the Montana constitution, which mandates that all forms of gambling are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum. Therefore, this chapter must be strictly construed to allow only those games that are within the scope of this section and within the definition of "lottery game".

~~(3)~~*(3)* The state lottery may not:

(a) operate a slot machine or carry on any form of gambling prohibited by the laws of this state; or

(b) carry on any form of gambling permitted by the laws of this state but which is not a lottery game within the scope of this section and within the definition of "lottery game"."

Section 12. Section 23-7-202, MCA, is amended to read:

"23-7-202. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

(2) determine policies for the operation of the state lottery, supervise the director and the staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the state *general fund and to the Montana STEM scholarship program special revenue account* under 23-7-402 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-7-402(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

(5) determine the price of each ticket or chance and the number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games;

(7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with:

(a) other lottery states and countries to offer lottery games; or

(b) an association for the purpose of participating in multistate lottery games or games offered in other states and other countries;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part."

Section 13. Section 23-7-402, MCA, is amended to read:

"23-7-402. (Temporary) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) Lottery contractor fees, which are fees paid to contracted lottery vendors based on sales, must be paid from the state lottery enterprise fund. The money to pay lottery contractor fees is statutorily appropriated, as provided in 17-7-502, to the lottery.

(4) ~~That~~ *(a) Except as provided in subsection (4)(b), that* part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund. *Once the amount of net revenue transferred to the general fund during a fiscal year equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be transferred to the Montana STEM scholarship program special revenue account established in [section 4].*

(b) For fiscal year 2016, prior to any net revenue being transferred to the general fund from the enterprise fund, $400,000 of net revenue must be transferred from the enterprise fund to the Montana STEM scholarship special revenue account established in [section 4] for the purpose of distributing STEM scholarships pursuant to [sections 1 through 4] during the 2015-2016 school year.

(5) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning. (Terminates June 30, 2019—sec. 3, Ch. 2, L. 2013.)

23-7-402. (Effective July 1, 2019) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund. *Once the amount of net revenue transferred to the general fund during a fiscal year equals the amount transferred to the general fund in fiscal year 2015, any additional net revenue must be transferred to the Montana STEM scholarship program special revenue account established in [section 4].*

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning."

Section 14. Appropriation. There is appropriated $400,000 from the state lottery enterprise fund to the state lottery for the biennium ending June 30, 2017, for the purpose of advertising and marketing the lottery.

Section 15. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 26, part 6, and the provisions of Title 20, chapter 26, part 6, apply to [sections 1 through 4].

Section 16. Effective date. [This act] is effective July 1, 2015.

Approved May 4, 2015

CHAPTER NO. 386

[HB 627]

AN ACT CREATING AN INTERIM TASK FORCE TO STUDY THE OPERATIONS OF THE OFFICE OF STATE PUBLIC DEFENDER TO DEVELOP A LONG-TERM ORGANIZATIONAL PLAN THAT WILL ALLOW THE OPD TO PROVIDE EFFECTIVE ASSISTANCE OF COUNSEL TO THOSE THAT QUALIFY; SPECIFYING MEMBERS AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

WHEREAS, the Office of State Public Defender (OPD) was established in the Montana Public Defender Act by the 2005 Montana Legislature; and

WHEREAS, OPD is supervised by the Montana Public Defender Commission, whose members are appointed by the Governor; and

WHEREAS, the organizational structure of the OPD has changed over time in response to court rulings to include three programs: the Public Defender Program, the Appellate Defender Program, and the Conflict Coordinator, each with its own chief; and

WHEREAS, the number of cases assigned to the Public Defender Program has grown by 14.6% since fiscal year 2010, and, despite a yearly case closing rate of 91.8% during fiscal year 2014, the Public Defender Program had nearly 21,000 open, active cases at the end of that fiscal year; and

WHEREAS, the Appellate Defender Program experienced a 42% increase in caseload from fiscal year 2012 to 2014; and

WHEREAS, abuse and neglect cases made up 34% of the case growth in the Public Defender Program from fiscal year 2010 to fiscal year 2014, and in the

Appellate Defender Program these cases were projected to increase 43% between fiscal year 2013 and fiscal year 2015; and

WHEREAS, in February 2013 the Commission unanimously approved a resolution to authorize the Chief Public Defender to take necessary and appropriate actions to limit acceptance of new cases until further resources were available or caseloads decreased to a manageable number.

Be it enacted by the Legislature of the State of Montana:

Section 1. Task force on state public defender operations — membership. (1) There is a task force on state public defender operations.

(2) The task force consists of 11 members appointed as follows:

(a) three members of the house of representatives, two of whom must be appointed by the speaker of the house and one of whom must be appointed by the house minority leader;

(b) three members of the senate, one of whom must be appointed by the senate president and two of whom must be appointed by the senate minority leader;

(c) one district court judge appointed by the chief justice of the supreme court; and

(d) four members appointed by the governor, none of whom may be a currently serving legislator, including:

(i) one attorney experienced in the federal Indian Child Welfare Act advocating on behalf of racial minorities in Montana;

(ii) one attorney with experience in the prosecution of misdemeanor and felony offenses in Montana;

(iii) one attorney with experience in the criminal defense of misdemeanor and felony offenses in Montana; and

(iv) one individual assigned to act as a group facilitator.

(3) If possible, the senate president and senate minority leader and the speaker of the house and house minority leader shall select members who served on the joint appropriations subcommittee on judicial branch, law enforcement, and justice during the 2015 legislative session.

(4) Legislative members are entitled to receive compensation and expenses as provided in 5-2-302. Members appointed pursuant to subsections (2)(c) through (2)(e) are entitled to reimbursement for travel expenses as provided in 2-18-501 through 2-18-503.

(5) The task force shall select a presiding officer and vice presiding officer by majority vote. The presiding officer and vice presiding officer must be legislative members.

(6) The legislative services division shall provide staff assistance to the task force. The legislative fiscal division, the office of state public defender, and the judicial branch shall provide information upon request.

Section 2. Task force duties. (1) The task force shall study the operations of the office of state public defender and develop a long-term organizational plan for the next 6 to 10 years that will allow the office to provide effective assistance of counsel to those that qualify.

(2) The study must examine:

(a) the constitutional duties of the office;

(b) the statutory duties of the office;

(c) the ethics and professional responsibilities of attorneys employed at the office;

(d) how other states provide assistance of counsel to those who qualify for assistance, including how those states structure and fund their offices or programs and any litigation on the structure and funding of those offices and programs;

(e) the effects of compensation and workloads on the recruitment and retention of attorneys and administrative and support staff;

(f) measures and resources that could be implemented or assigned to improve staff and attorney recruitment and retention issues;

(g) the possibility, costs, and benefits of restructuring the office; and

(h) any other issues related to the duties, funding, and ethical obligation of the office that the task force determines are relevant to develop a long-term organizational plan that will allow the office to accomplish its constitutional and statutory duties.

(3) The task force shall involve input from the various stakeholders of the office and the legal system and, to the extent possible, consult with outside experts about Montana's system and systems in other states.

(4) The task force shall coordinate meetings with the law and justice interim committee and may hold no more than five meetings.

(5) All aspects of the task force, including reporting requirements, must be concluded prior to September 15, 2016. The task force shall prepare a final report of its findings, conclusions, and recommendations and shall prepare draft legislation whenever appropriate. The task force shall submit the final report to the governor, the chief justice of the supreme court, and the 65th legislature as provided in 5-11-210.

Section 3. Appropriation. There is appropriated $24,000 from the general fund to the legislative services division for the biennium beginning July 1, 2015, to support the activities of the task force established in [section 1].

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective July 1, 2015.

Section 5. Termination. [This act] terminates December 31, 2016.

Approved May 4, 2015

CHAPTER NO. 387

[SB 20]

AN ACT REALLOCATING A PORTION OF METALLIFEROUS MINES LICENSE TAX COLLECTIONS; PROVIDING A TRANSFER OF FUNDS TO THE ENVIRONMENTAL QUALITY PROTECTION FUND; AMENDING SECTIONS 15-37-117, 75-10-704, AND 75-10-743, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of 17-2-124, be allocated as follows:

(a) to the credit of the general fund of the state, ~~57%~~ *47%* of total collections each year;

(b) to the state special revenue fund to the credit of ~~a~~ *the* hard-rock mining impact trust account *established in 90-6-304(2)*, 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund established in 82-4-312, 8.5% of total collections each year;

(d) to the natural resources operations state special revenue account established in 15-38-301, 7% of total collections each year; ~~and~~ *and*

~~(e)~~*(e)* within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, ~~25%~~ *35%* of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection ~~(1)(e)(i)~~ *(1)(e)(i)* to be further allocated as follows:

(A) 33 1/3% is allocated to the county for general planning functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection ~~(1)(e)~~ *(1)(e)* in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection ~~(1)(e)~~ *(1)(e)*. The allocation to the county described by subsection ~~(1)(e)~~ *(1)(e)* is a statutory appropriation pursuant to 17-7-502."

Section 2. Section 75-10-704, MCA, is amended to read:

"75-10-704. Environmental quality protection fund. (1) Subject to legislative fund transfers, there is in the state special revenue fund an environmental quality protection fund to be administered as a revolving fund by the department. The department is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

(2) The fund may be used by the department only to carry out the provisions of this part and for remedial actions taken by the department pursuant to this part in response to a release of hazardous or deleterious substances.

(3) The department shall:

(a) except as provided in subsection (7), establish and implement a system, including the preparation of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the environment; and

(b) investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable

persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(4) There must be deposited in the fund:

(a) all penalties, forfeited financial assurance, natural resource damages, and remedial action costs recovered pursuant to 75-10-715;

(b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant to 75-10-711(5);

(c) funds allocated to the fund by the legislature;

(d) proceeds from the resource indemnity and ground water assessment tax as authorized by 15-38-106;

(e) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(f) funds received from the interest income of the fund;

(g) funds received from settlements pursuant to 75-10-719(7); ~~and~~

(h) funds received from the interest paid pursuant to 75-10-722*; and*~~.~~

(i) funds transferred from the orphan share account pursuant to 75-10-743(10). The full amount of these funds must be dedicated each fiscal year as follows:

(i) 50% to the state's contribution for cleanup and long-term operation and maintenance costs at the Libby asbestos superfund site; and

(ii) 50% to metal mine reclamation projects at abandoned mine sites, as provided in 82-4-371. This subsection (4)(i)(ii) does not apply to exploration or mining work performed after March 9, 1971. Projects funded under this subsection (4)(i)(ii) are not subject to the requirements of Title 75, chapter 10, part 7.

(5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and additional money remains in the fund, the department shall seek additional authority to spend money from the fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

(6) Whenever the amount of money in the fund is insufficient to carry out remedial action, the department may apply to the governor for a grant from the environmental contingency account established pursuant to 75-1-1101.

(7) (a) There is established a state special revenue account for all funds donated or granted from private parties to remediate a specific release at a specific facility. There must be deposited into the account the interest income earned on the account. A person is not liable under 75-10-715 solely as a result of contributing to this account.

(b) Funds donated or granted for a specific project pursuant to this subsection (7) must be accumulated in the fund until the balance of the donated or granted funds is sufficient, as determined by the department, to remediate the facility pursuant to the requirements of 75-10-721 for which the funds are donated.

(c) If the balance of the fund created in this subsection (7), as determined by the department pursuant to the requirements of 75-10-721, is not sufficient to remediate the facility within 1 year from the date of the initial contribution, all donated or granted funds, including any interest on those donated or granted funds, must be returned to the grantor.

(d) If the balance for a specific project is determined by the department to be sufficient to remediate the facility pursuant to the requirements of 75-10-721,

the department shall give that site high priority for remedial action, using the funds donated under this subsection (7).

(e) This subsection (7) is not intended to delay, to interfere with, or to diminish the authority or actions of the department to investigate, negotiate, and take legal action, as appropriate, to identify liable persons, to obtain the participation and financial contribution of liable persons for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.

(f) The department shall expend the funds in a manner that maximizes the application of the funds to physically remediating the specific release.

(8) (a) A person may donate in-kind services to remediate a specific release at a specific facility pursuant to subsection (7). A person who donates in-kind services is not liable under 75-10-715 solely as a result of the contribution of in-kind services.

(b) A person who donates in-kind services with respect to remediating a specific release at a specific facility is not liable under this part to any person for injuries, costs, damages, expenses, or other liability that results from the release or threatened release, including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness, loss of or damage to property, or economic loss.

(c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is caused by conduct of the entity providing in-kind services that is negligent or grossly negligent or that constitutes intentional misconduct.

(d) When a person is liable under 75-10-715 for costs or damages incurred as a result of a release or threatened release of a hazardous or deleterious substance, the person may not avoid that liability or responsibility under 75-10-711 by subsequent donations of money or in-kind services under the provisions of subsection (7) and this subsection (8).

(e) Any donated in-kind services that are employed as part of a remedial action pursuant to this subsection (8) must be approved by the department as appropriate remedial action."

Section 3. Section 75-10-743, MCA, is amended to read:

"75-10-743. Orphan share state special revenue account — reimbursement of claims — payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and, except as provided in subsections (9), (10), and (11), must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-751 and to pay costs incurred by the department in defending the orphan share.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;

(c) unencumbered funds remaining in the abandoned mines state special revenue account;

(d) interest income on the account;

(e) funds received from settlements pursuant to 75-10-719(7); and

(f) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share fund does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share fund, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share fund does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Except as provided in subsection (6), reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the department's costs incurred in defending the orphan share must be paid from the orphan share fund in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share fund and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs. The agency may be reimbursed only after:

(i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent jurisdiction;

(ii) it has received a notice letter pursuant to 75-10-711; and

(iii) the department has approved the costs.

(7) (a) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(b) The department may reimburse claims from a lead liable person upon completion and department approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable person for the preparation of the reports.

(8) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process.

(9) (a) For the biennium beginning July 1, 2005, up to $1.25 million may be used by the department to pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than $1.25 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the $1.25 million from potentially liable persons.

(b) The money spent pursuant to subsection (9)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent.

(10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 $1.2 million in each fiscal year until the board of investments makes the certification pursuant to subsection (10)(b) of this section.

(b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water treatment permanent trust fund will be sufficient, with future earnings, to provide a fund balance of $19.3 million on January 1, 2018.

(ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board of investments shall notify the department and certify to the department the amount of money, if any, that must be transferred during the fiscal year in which the board of investments makes its determination pursuant to subsection (10)(b)(i) in order to provide a fund balance of $19.3 million on January 1, 2018.

(iii) In the fiscal year that the board of investments makes its determination and notifies the department, the department shall transfer only the amount certified by the board of investments, if any, and may not make additional transfers during subsequent fiscal years.

(c) After July 1, 2018, the department shall transfer $1.2 million in each fiscal year from the orphan share state special revenue account to the environmental quality protection fund provided in 75-10-704.

(11) The orphan share account is subject to legislative fund transfers."

Section 4. Effective date. [This act] is effective July 1, 2015.

Section 5. Termination. [This act] terminates June 30, 2027.

Approved May 4, 2015

CHAPTER NO. 388

[SB 175]

AN ACT REVISING LAWS RELATED TO THE TEMPORARY EMERGENCY LODGING PROGRAM; CLARIFYING TAX CREDIT REQUIREMENTS; AMENDING SECTIONS 15-30-2381, 15-31-171, 50-51-114, AND 50-51-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2381, MCA, is amended to read:

"15-30-2381. Tax credit for providing ~~temporary~~ emergency lodging. (1) There is a credit for taxes otherwise due under this chapter for participation in the ~~temporary~~ emergency lodging program established in 50-51-114.

(2) The tax credit is:

(a) equal to $30 for each day of lodging provided; and

(b) limited to a maximum of 5 nights' lodging for each individual *or family* per calendar year.

(3) The credit may be claimed only for lodging provided in Montana.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the taxpayer has no tax liability.

(5) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-3301, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes."

Section 2. Section 15-31-171, MCA, is amended to read:

"15-31-171. Tax credit for providing ~~temporary~~ emergency lodging. (1) There is a credit for taxes otherwise due under this chapter for participation in the ~~temporary~~ emergency lodging program established in 50-51-114.

(2) The tax credit is:

(a) equal to $30 for each day of lodging provided; and

(b) limited to a maximum of 5 nights' lodging for each individual *or family* per calendar year.

(3) The credit may be claimed only for lodging provided in Montana.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the taxpayer has no tax liability.

(5) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-3301, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes."

Section 3. Section 50-51-114, MCA, is amended to read:

"50-51-114. ~~Temporary emergency~~ *Emergency* lodging program — definitions. (1) There is ~~a voluntary temporary~~ *an* emergency lodging program for licensed establishments located in Montana to assist designated charitable organizations in providing short-term lodging in Montana to individuals and families displaced from their residences.

(2) Except as provided in subsection (8), participating establishments may receive a tax credit as provided in 15-30-2381 and 15-31-171 for providing ~~temporary~~ *emergency* lodging to an individual *or family* who is:

(a) ~~displaced from the individual's residence because of temporary immediate danger to the individual posed by an assault, as described in 45-5-206, or potential assault by a partner or family member, as defined in 45-5-206~~ *in immediate need of shelter based on an imminent or existing threat to the safety or security of the individual or family*; and

(b) referred to the establishment by a designated charitable organization.

(3) Except as provided in subsection (8), establishments participating in the ~~temporary~~ emergency lodging program are eligible for a tax credit as provided in 15-30-2381 and 15-31-171 for up to 5 nights of lodging for each individual *or family* per calendar year.

(4) ~~Temporary emergency~~ *Emergency* lodging provided under this section must be provided at no cost to the individual or the referring organization.

(5) Participating establishments may offer lodging based on availability of rooms.

(6) The department shall maintain a registry of designated charitable organizations and shall provide a list of approved organizations to establishments ~~upon~~ *on* request. The department shall seek comment from *appropriate* statewide nonprofit organizations ~~that work with victims of disaster and domestic violence~~ when developing and updating the registry.

(7) For the purposes of 50-51-115 and this section, "designated charitable organization" means an organization approved by the department to make referrals for ~~temporary~~ emergency lodging.

(8) The tax credit referred to in subsections (2) and (3) does not apply to the costs of providing lodging to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or 5191 and who receives financial assistance for temporary housing under 42 U.S.C. 5174."

Section 4. Section 50-51-115, MCA, is amended to read:

"50-51-115. ~~Temporary emergency~~ *Emergency* lodging — liability for damages. (1) An individual who is provided with ~~temporary~~ emergency lodging under 50-51-114 is liable for damages caused to the property during the individual's stay.

(2) If the individual is unable to pay for damages caused to the property, the designated charitable organization that referred the individual for ~~temporary~~ emergency lodging is responsible for the cost of the damages."

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014.

Approved May 4, 2015

CHAPTER NO. 389

[SB 188]

AN ACT CLARIFYING THAT REAL PROPERTY DAMAGE RESTORATIONS COSTS MAY NOT BE GREATER THAN THE FAIR MARKET VALUE OF THE PROPERTY IMMEDIATELY BEFORE A FIRE; DEFINING "FOREST OR RANGE FIRE"; AMENDING SECTION 50-63-104, MCA; AND

PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-63-104, MCA, is amended to read:

"50-63-104. Liability for forest or range fires. (1) In a civil action against any person or legal entity that is not a state government entity or a political subdivision of state government, for a forest or range fire caused by a negligent or unintentional act or omission that is not willful or wanton, the real and personal property damage is limited to:

(a) the reasonable costs for controlling or extinguishing the forest or range fire;

(b) economic damages; and

(c) either:

(i) the diminution of fair market value of the real and personal property resulting from the fire; or

(ii) the actual and tangible restoration costs associated with restoring the damaged real and personal property to its undamaged state to the extent that those actual and tangible ~~restoration~~ costs are reasonable and practical. *The costs of restoring the unimproved property may not be greater than the fair market value of the property immediately before the fire.*

(2) As used in this section:

(a) "economic damages" means objectively verifiable monetary loss, including but not limited to out-of-pocket expenses, loss of earnings, loss of use of property, and loss of business or employment opportunities;

(b) "fair market value" means the amount a willing buyer would pay a willing seller in an arm's-length transaction when both parties are fully informed about all of the advantages and disadvantages of the property and neither is acting under any compulsion to buy or sell, as determined by a certified appraiser who is qualified to appraise the property~~.~~*;*

(c) "forest or range fire" means a fire that burns any unimproved real property located outside of an incorporated municipality, regardless of whether there are improvements also affected by the fire and regardless of whether the fire also burns property within an incorporated municipality."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to all actions and proceedings initiated after [the effective date of this act].

Approved May 4, 2015

CHAPTER NO. 390

[SB 293]

AN ACT ELIMINATING TERM LIMITS FOR MEMBERS OF THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTION 5-16-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-16-103, MCA, is amended to read:

"5-16-103. Term of office. The terms of office of all council members ~~shall be~~ *are* 2 years and ~~shall~~ terminate upon appointment of a new council before the 50th legislative day. ~~Council members may be reappointed. However, in no case shall a member serve more than 6 years.~~"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 2, 2015

CHAPTER NO. 391

[SB 306]

AN ACT UPDATING AND REVISING NOTARIAL LAWS; PROVIDING FOR RECIPROCITY WITH NOTARIAL ACTS IN OTHER JURISDICTIONS; ALLOWING FOR ATTESTATIONS OF ELECTRONIC RECORDS; DESCRIBING THE MAINTENANCE AND USE OF A NOTARY PUBLIC'S JOURNAL; DESCRIBING PROHIBITED ACTS; AUTHORIZING THE SECRETARY OF STATE TO PROVIDE RULES; AMENDING SECTIONS 1-5-601, 1-5-602, 1-5-603, 1-5-604, 1-5-605, 1-5-606, 1-5-607, 1-5-608, 1-5-609, 1-5-610, AND 1-5-611, MCA; REPEALING SECTIONS 1-5-401, 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-406, 1-5-407, 1-5-408, 1-5-409, 1-5-415, 1-5-416, 1-5-417, 1-5-418, 1-5-419, AND 1-5-420, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 1-5-601, MCA, is amended to read:

"1-5-601. Short title. This part may be cited as the "*Revised* Uniform Law on Notarial Acts"."

Section 2. Section 1-5-602, MCA, is amended to read:

"1-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Acknowledgment" means a declaration by ~~a person~~ *an individual before a notarial officer* that the ~~person~~ *individual* has ~~executed an instrument~~ *willingly signed a record* for the purposes stated in the ~~instrument~~ *record* and, if the ~~instrument~~ *record* is ~~executed~~ *signed* in a representative capacity, that the ~~person~~ *individual* signed the ~~instrument~~ *record* with proper authority and ~~executed it~~ *signed the record* as the act of the ~~person~~ *individual* or entity ~~represented and~~ identified in the ~~instrument~~ *record*.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

~~(2)~~*(4)* "In a representative capacity" means *acting as*:

(a) ~~for and on behalf of a corporation, partnership, trust, or other entity as~~ an authorized officer, agent, partner, trustee, or other representative *for a person other than an individual*;

(b) ~~as~~ a public officer, personal representative, guardian, or other representative, in the capacity ~~recited~~ *stated* in ~~the instrument~~ *a record*;

(c) ~~as~~ an *agent or* attorney in fact for a principal; or

(d) ~~in any other capacity as~~ an authorized representative of another *in any other capacity*.

~~(3)~~*(5)* "Notarial act" means ~~any~~ *an* act*, whether performed with respect to a tangible or electronic record,* that a ~~notary public of this state is authorized to~~ *notarial officer may* perform *under the law of this state. The term* ~~and~~ includes taking an acknowledgment, administering an oath or affirmation, taking a verification ~~upon~~ *on* oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, *certifying or attesting a transcript of an affidavit or deposition,* and noting a protest of a negotiable instrument.

~~(4)~~*(6)* "Notarial officer" means a notary public or other ~~officer~~ *individual* authorized to perform notarial acts.

(7) "Notary public" means an individual commissioned to perform a notarial act by the secretary of state.

(8) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

(9) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(12) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(13) "Stamping device" means:

(a) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(b) an electronic device or process capable of attaching to or logically associating an official stamp with an electronic record. The notarial official stamp, whether applied to the record physically or electronically, is considered to be a seal for the purposes of admitting a document in court.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(5)~~*(15)* "Verification ~~upon~~ *on* oath or affirmation" means a declaration*, made by an individual on oath or affirmation before a notarial officer,* that a statement *in a record* is true ~~made by a person upon oath or affirmation~~."

Section 3. Section 1-5-603, MCA, is amended to read:

"1-5-603. ~~Notarial~~ *Requirements for certain notarial* acts — *personal appearance — identification methods.* (1) ~~In taking an acknowledgment, the~~ *A* notarial officer *who takes an acknowledgment of a record* shall determine, ~~either~~ from personal knowledge or ~~from~~ satisfactory evidence~~, that the person appearing~~ *of the identity of the individual, that the individual appearing* before the *notarial* officer *and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual* ~~and making the acknowledgment is the person whose true signature is on the instrument~~.

(2) ~~In taking~~ *A notarial officer who takes* a verification ~~upon~~ *on* oath or affirmation *of a statement*~~, the notarial officer~~ shall determine, ~~either~~ from personal knowledge or ~~from~~ satisfactory evidence~~, that the person~~ *of the identity of the individual, that the individual* appearing before the *notarial* officer and making the verification ~~is the person whose true~~ *has the identity claimed and that the* signature ~~is~~ on the statement verified *is the signature of the individual*.

(3) ~~In witnessing or attesting a signature, the~~ *A* notarial officer *who witnesses or attests to a signature* shall determine, ~~either~~ from personal knowledge or ~~from~~ satisfactory evidence *of the identity of the individual*, that the ~~signature is that of the person~~ *individual* appearing before the *notarial* officer and ~~named in the instrument~~ *signing the record has the identity claimed*.

(4) ~~In certifying or attesting a copy of a document or other item, the~~ *A* notarial officer *who certifies or attests a copy of a record or an item that was copied* shall determine that the ~~proffered~~ copy is a full, true, and accurate transcription or reproduction of ~~that which was copied~~ *the record or the item*.

(5) ~~(a) In making or noting a protest of a negotiable instrument, the~~ *A* notarial officer *who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 30-3-510(b)* ~~shall identify the instrument and certify either:~~

~~(i) that due presentment has been made; or~~

~~(ii) the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment~~.

~~(b) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.~~

(6) A notarial officer *who administers an oath in conjunction with taking a deposition and certifies or attests to the transcript of the deposition shall certify to the matters set forth by this part, other laws, or the court of jurisdiction.*

(7) (a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear physically before the notarial officer or by real-time, two-way video and audio communication technology as authorized in [section 12] and [section 25].

(b) Except as provided in subsection (7)(c), subsection (7)(a) modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq.

(c) Subsection (7)(a) does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

(8) A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(9) A notarial officer has satisfactory evidence ~~that a person is the person whose true signature is on a document if that person is~~ *of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual*:

~~(a) personally known to the notarial officer;~~

(a) by means of:

(i) a passport, driver's license, or government-issued nondriver identification card, which may be current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act; or

(ii) another form of government identification issued to an individual, which:

(A) may be current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act;

(B) must contain the signature or a photograph of the individual; and

(C) must be satisfactory to the notarial officer; or

(b) ~~identified upon~~ *by verification on* ~~the~~ oath or affirmation of a credible witness personally *appearing before the notarial officer and* known to the notarial officer~~;~~ or

~~(c) identified~~ *whom the notarial officer can identify* on the basis of a ~~current identification document or documents that show a photograph and signature of the person~~ *passport, driver's license, or government-issued nondriver identification card, which is current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act.*

(10) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual."

Section 4. Section 1-5-604, MCA, is amended to read:

"1-5-604. Notarial acts in this state — *authority to perform notarial act.* (1) A notarial act may be performed ~~within~~ *in* this state by ~~the following persons~~:

(a) a notary public of this state;

(b) a judge, clerk, or deputy clerk of any court of this state; or

(c) any other ~~person~~ *individual* authorized to perform the specific act by the law of this state.

~~(2) Notarial acts performed within this state under federal authority as provided in 1-5-607 have the same effect as if performed by a notarial officer of this state.~~

~~(3) Subject to the provisions of 1-5-605, notarial acts performed within Montana by notarial officers of bordering states have the same effect as if performed by a notarial officer of Montana.~~

~~(4)~~*(2)* The signature and title of ~~a person~~ *an individual* performing a notarial act *in this state* are prima facie evidence that the signature is genuine and that the ~~person~~ *individual* holds the designated title.

(3) A notarial officer may perform a notarial act authorized by this part or by law of this state other than this part.

(4) The notarial acts of certifying or attesting a transcript of an affidavit or deposition and noting a protest of a negotiable instrument may be performed only by notarial officers who are knowledgeable of the applicable legal requirements.

(5) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the notarial officer to perform the notarial act."

Section 5. Section 1-5-605, MCA, is amended to read:

"1-5-605. ~~Reciprocity of notarial acts~~ *Notarial act in another state — reciprocity — notary public authority.* (1) A ~~Montana notarial officer may perform a~~ notarial act ~~in a bordering~~ *performed in another* state ~~if the state recognizes the officer's authority within the state.~~

~~(2) A notarial act performed in Montana by a notarial officer of a bordering state~~ has the same effect under ~~Montana~~ *the* law *of this state* as if the *notarial* act were performed by a ~~Montana~~ notarial officer~~, provided that the bordering~~

~~state grants Montana's notarial officers similar authority within the bordering~~ *of this* state *if the notarial act performed in the other state is performed by:*

(a) a notary public of that state;

(b) a judge, clerk, or deputy clerk of a court of that state; or

(c) any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the officer to perform the notarial act.

(4) A commission to act as a notary public authorizes the notary public, as provided in [section 16], to perform notarial acts in any county in the state or in any bordering state if the border state recognizes the notary's authority within that state. The commission does not provide the notary public any immunity or benefit conferred by the laws of this state on public officials or employees."

Section 6. Section 1-5-606, MCA, is amended to read:

"1-5-606. Notarial acts ~~in other jurisdictions of the United States~~ *under authority of federally recognized Indian tribes.* (1) A notarial act ~~has the same effect under the law of this state as if~~ performed *under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed* by a notarial officer of this state if ~~it is~~ *the notarial act* performed in ~~another state, commonwealth, territory, district, or possession of the United States by any of the following persons~~ *the jurisdiction of the tribe is performed by*:

(a) a notary public of ~~that jurisdiction~~ *the tribe*;

(b) a judge, clerk, or deputy clerk of a court of ~~that jurisdiction~~ *the tribe*; or

(c) any other ~~person~~ *individual* authorized by the law of ~~that jurisdiction~~ *the tribe* to perform notarial acts.

~~(2) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in 1-5-607 have the same effect as if performed by a notarial officer of this state.~~

~~(3)~~*(2)* The signature and title of ~~a person~~ *an individual* performing a notarial act *under the authority of and in the jurisdiction of a federally recognized Indian tribe* are prima facie evidence that the signature is genuine and that the ~~person~~ *individual* holds the designated title.

~~(4)~~*(3)* The signature and ~~indicated~~ title of ~~an~~ *a notarial* officer ~~listed~~ *described* in subsection (1)~~(a) or (1)(b)~~ conclusively establish the authority of ~~a holder of that title~~ *the notarial officer* to perform a notarial act."

Section 7. Section 1-5-607, MCA, is amended to read:

"1-5-607. Notarial acts under federal authority. (1) A notarial act *performed under federal law* has the same effect under the law of this state as if performed by a notarial officer of this state if ~~it is~~ *the notarial act* performed ~~anywhere by any of the following persons under authority granted by the law of the United States~~ *under federal law is performed by*:

(a) a judge, clerk, or deputy clerk of a court;

(b) ~~a commissioned officer on active duty~~ *an individual* in the military service of the United States *or performing duties under the authority of the military service if authorized to perform notarial acts under federal law*;

(c) an *individual designated as a notarizing* officer ~~of the foreign service or consular officer of~~ *by* the United States *department of state for performing notarial acts overseas*; or

(d) any other ~~person~~ *individual* authorized by federal law to perform notarial acts.

(2) The signature and title of ~~a person~~ *an individual acting under federal authority and* performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and indicated title of an officer ~~listed~~ *described* in subsection (1)~~(a), (1)(b), or (1)(c)~~ conclusively establish the authority of ~~a holder of that title~~ *the officer* to perform a notarial act."

Section 8. Section 1-5-608, MCA, is amended to read:

"1-5-608. Foreign notarial acts. (1) A notarial act *performed under the authority of and in the jurisdiction of a foreign state or a constituent unit of the foreign state or under the authority of a multinational or international governmental organization* has the same effect under the law of this state as if performed by a notarial officer of this state ~~if it is performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:~~

~~(a) a notary public or notary;~~

~~(b) a judge, clerk, or deputy clerk of a court of record; or~~

~~(c) any other person authorized by the law of that jurisdiction to perform notarial acts~~.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, *and issued by a foreign state that is a party to the Hague Convention* conclusively establishes that the signature of the notarial officer is genuine and that the *notarial* officer holds the indicated office.

(3) A ~~certificate by a foreign service or~~ consular ~~officer of~~ *authentication issued by an individual designated by* the United States ~~stationed in the nation under the jurisdiction of which the notarial act was performed or a certificate by a foreign service or consular officer of that nation stationed in the United States conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate~~ *department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office*.

~~(4) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.~~

~~(5) An official stamp or seal of an officer listed in subsection (1)(a) or (1)(b) is prima facie evidence that a person with the indicated title has authority to perform notarial acts.~~

~~(6)~~*(4)* If the title of office and indication of authority to perform notarial acts *in a foreign state* appears ~~either~~ in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(5) The signature and official stamp of an individual holding an office described in subsection (4) are prima facie evidence that the signature is genuine and the individual holds the designated title.

(6) For the purposes of this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe."

Section 9. Section 1-5-609, MCA, is amended to read:

"1-5-609. Certificate of notarial acts. (1) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must*:*

~~include identification of the jurisdiction in which the notarial act is performed, the date on which the notarial act is performed, the type of notarial act being performed, and~~

(a) be executed contemporaneously with the performance of the notarial act;

(b) be signed and dated by the notarial officer. If the notarial officer is a notary public, the certificate must be signed in the same manner as on file with the secretary of state.

(c) identify the jurisdiction in which the notarial act is performed;

(d) contain the title of the office of the notarial officer*;* and ~~must include the official seal of office. If~~

(e) if the *notarial* officer is a ~~Montana~~ notary public, ~~the certificate must also~~ indicate the ~~place of the notarial officer's residence and the~~ date of expiration*, if any,* of the *notarial officer's* commission ~~of office, but omission of that place or date may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank~~.

(2) (a) If a notarial act regarding a tangible record is performed by:

(i) a notary public, the notary public shall affix an official stamp to or emboss on the certificate. The certificate must be part of or securely affixed to the record.

(ii) a notarial officer other than a notary public and the certificate contains the information specified in subsections (1)(b) through (1)(d), the notarial officer may affix to or emboss an official stamp on the certificate.

(b) If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (1)(b) through (1)(d), the certificate and official stamp must be attached to or logically associated with the record.

~~(2)~~*(3)* A certificate of a notarial act is sufficient if ~~it~~ *the certificate* meets the requirements of ~~subsection~~ *subsections* (1) and ~~it~~ *(2) and this subsection*:

(a) is in the short form set forth in 1-5-610;

(b) is in a form otherwise ~~prescribed~~ *permitted* by the law of this state;

(c) is in a form ~~prescribed~~ *permitted* by the laws ~~or regulations~~ applicable in the ~~place~~ *jurisdiction* in which the notarial act was performed; or

(d) sets forth the actions of the notarial officer, and ~~those~~ *the actions* are sufficient to meet the requirements of the ~~designated~~ notarial act *as provided in 1-5-610, [section 13], and this section or of the laws of this state other than specified in this part*.

~~(3) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by 1-5-603.~~

(4) A notarial officer may subsequently correct any information included on or omitted from a certificate executed by that notarial officer. A change or correction may not be made to the impression of a notarial seal or the notarial stamp."

Section 10. Section 1-5-610, MCA, is amended to read:

"1-5-610. Short forms. The following short-form certificates of notarial acts are sufficient for the purposes indicated if they are completed with the information required by ~~1-5-416(1)(c) and (1)(f) and 1-5-609(1)~~ *1-5-609(1) and (2)*:

(1) For an acknowledgment in an individual capacity:

State of _____

~~(County)~~ *County* of _____

This ~~instrument~~ *record* was acknowledged before me on (date) by (name(s) of ~~person(s)~~ *individual(s)*)

_____

_____.

(Signature of notarial officer)

(~~Seal, if any~~ *Official Stamp*)

_____

~~(Name - typed, stamped, or printed)~~

_____

Title ~~(and Rank)~~ *of officer (if not shown in stamp)*

_____

~~(Residing at)~~

~~[My commission expires: _____]~~

(2) For an acknowledgment in a representative capacity:

State of _____

~~(County)~~ *County* of _____

This ~~instrument~~ *record* was acknowledged before me on (date) by (name(s) of ~~person(s)~~ *individual(s)*) as (type of authority~~, e.g., officer, trustee, etc.~~) of *or for* (name of party on behalf of whom ~~instrument~~ *the record* was executed).

_____

_____

(Signature of notarial officer)

(~~Seal, if any~~ *Official stamp*)

_____

~~(Name - typed, stamped, or printed)~~

_____

Title ~~(and Rank)~~ *of officer (if not shown in stamp)*

_____

~~(Residing at)~~

~~[My commission expires: _____]~~

(3) For a verification ~~upon~~ *on* oath or affirmation:

State of _____

~~(County)~~ *County* of _____

~~Signed~~ *This record was signed* and sworn to (or affirmed) before me on (date) by (name(s) of ~~person(s)~~ *individual(s)* ~~making statement~~)

_____

_____

(Signature of notarial officer)

(~~Seal, if any~~ *Official stamp*)

_____

(Name - typed, stamped, or printed)

_____

Title ~~(and Rank)~~ *of officer (if not shown in stamp)*

_____

~~(Residing at)~~

~~[My commission expires: _____]~~

(4) For witnessing or attesting a signature:

State of _____

~~(County)~~ *County* of _____

~~Signed or attested~~ *The record was signed* before me on (date) by (name(s) of ~~person(s)~~ *individual(s)*)

_____

_____

(Signature of notarial officer)

(~~Seal, if any~~ *Official stamp*)

_____

~~(Name - typed, stamped, or printed)~~

_____

Title ~~(and Rank)~~ *of officer (if not shown in stamp)*

_____

~~(Residing at)~~

~~[My commission expires: _____]~~

(5) For ~~attestation of~~ *certifying* a copy of a ~~document~~ *record*:

State of _____

~~(County)~~ *County* of _____

I certify that this is a true and correct copy of ~~a document~~ *(identification of record)* in the possession of*, or issued by, (custodian or issuer) and made by me on (date)*

_____

~~Dated~~ _____

_____

(Signature of notarial officer)

(~~Seal, if any~~ *Official stamp*)

_____

~~(Name - typed, stamped, or printed)~~

_____

Title ~~(and Rank)~~ *of officer (if not shown in stamp)*

_____

~~(Residing at)~~

~~[My commission expires: _____]~~

(6) For certifying a transcript or a deposition or affidavit:

State of _____

County of _____

I hereby certify and state the following:

That I have sworn in the deponent;

that the deposition was taken before me and this is a true and accurate transcription of the testimony.

that I am not a relative, agent, or employee of the deponent or the attorney or counsel of any of the parties;

that I am not an interested party to the matter.

A review of this transcript (was / was not) requested.

Dated this _____ day of _____, 20___

_____

(Signature of notarial officer)

(Official stamp)

_____

Title of officer (if not shown in stamp)."

Section 11. Section 1-5-611, MCA, is amended to read:

"1-5-611. Uniformity of application and construction. ~~This~~ *Consideration must be given in applying and construing this* part ~~must be applied and construed~~ to ~~effectuate~~ *the need to promote the uniformity of* ~~the general purpose to make uniform~~ the law with respect to the subject of this part among *other enacting* states ~~enacting it~~."

Section 12. Notification regarding performance of notarial act on electronic record — selection of technology. (1) (a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records.

(b) A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall:

(a) notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records; and

(b) identify the technology the notary public intends to use. If the secretary of state has established by rule the standards for the technology used by the notary public, the technology must comply with the standards. If the technology complies with the standards, the secretary of state shall approve the use of the technology.

(3) A notary public in this state may perform acknowledgments or verifications on oath or affirmation by means of a real-time, two-way audio-video communication, according to the rules and standards established by the secretary of state, if:

(a) the signer is personally known to the notary or identified by a credible witness and, except for a transaction described in subsection (3)(b)(iv), is a legal resident of this state; and

(b) the transaction:

(i) involves real property located in this state;

(ii) involves personal property titled in this state;

(iii) is under the jurisdiction of any court in this state; or

(iv) is pursuant to a proxy marriage under 40-1-213 or 40-1-301.

Section 13. Official stamp. The official stamp of a notary public must:

(1) include the notary public's name, title, city of residence, commission expiration date, or other information required by the secretary of state;

(2) if a physical image, be in blue or black ink in a format prescribed by the secretary of state; or

(3) be capable of being copied together with the record to which the official stamp is affixed or attached or with which the official stamp is logically associated.

Section 14. Stamping device. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the stamping device to perform a notarial act.

(2) (a) On resignation from or the revocation or expiration of the notary public's commission or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing the stamping device against use in a manner that renders the stamping device unusable.

(b) On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render the stamping device unusable by destroying, defacing, damaging, erasing, or securing the stamping device against use in a manner that renders the stamping device unusable.

(3) The notary public or the notary public's personal representative or guardian shall promptly notify the secretary of state's office on discovering that the stamping device is lost or stolen.

Section 15. Notary public journal — retention. (1) A notary public shall maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs. Unless the provisions of subsection (7) apply, the notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(2) A journal may be created on a tangible medium or in an electronic format to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The format of a journal maintained on a tangible medium must be a permanent, bound register designed to deter fraud. A journal maintained in an electronic format must be in a permanent, tamper-evident electronic format that complies with the rules adopted by the secretary of state.

(3) An entry in a journal must be made contemporaneously with performance of the notarial act and contain:

(a) the date and time of the notarial act;

(b) a description of the record, if any, and the type of notarial act;

(c) the full name and address of each individual for whom the notarial act is performed;

(d) the signature of each individual for whom the notarial act is performed, except that transcripts of depositions and certified copies do not require the signature of the individual for whom the notarial act is performed;

(e) if the identity of the individual for whom the notarial act is performed is based on personal knowledge, a statement to that effect;

(f) if the identity of the individual for whom the notarial act is performed is based on satisfactory evidence, a brief description of the method of identification

and the identification credential presented, if any, including the date of issuance or expiration of any identification credential; and

(g) the fee, if any, charged by the notary public.

(4) If in performing the notarial act the notary public uses audio-video communication technology, as provided in [section 12] and by rule, the notary public shall keep a copy of the recording of the entire communication and a notation of the identification used for a period of 10 years from the date of the notarization. The provisions of subsection (7) apply to this subsection.

(5) A notary public shall promptly notify the secretary of state on discovering that the notary public's journal is lost or stolen.

(6) A notary public shall retain the notary public's journal as provided in subsection (1) or (7) and notify the secretary of state of the journal's location upon resignation of a commission or if the notary public's commission has been revoked or suspended.

(7) A current or former notary public may, instead of retaining a journal as provided in subsection (1), (4), or (6), transmit the journal to the repository approved by the secretary of state.

(8) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the notary public's journal or journals shall transmit all journals to the secretary of state.

Section 16. Notary public qualifications — commission — renewals. (1) An applicant for a commission as a notary public must:

(a) be at least 18 years old;

(b) be a citizen or permanent legal resident of the United States;

(c) be a resident of or have a place of employment or practice in this state;

(d) be able to read and write English; and

(e) be eligible to receive a commission as provided in subsection (2).

(2) To be eligible for a commission, an applicant shall pass an examination as provided in [section 17] and may not have been disqualified as provided in [section 18].

(3) An individual qualified under subsections (1) and (2) may apply to the secretary of state for a commission as a notary public.

(4) An applicant for a commission, including an applicant to renew an existing commission, shall:

(a) complete an application and provide information required by rule by the secretary of state;

(b) pay a filing fee set by rule;

(c) execute an oath of office and comply with requirements adopted by rule by the secretary of state;

(d) obtain an assurance in the form of a surety bond or its functional equivalent in the amount of $10,000. The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. The surety or issuing entity is liable under the assurance if a notary public violates a law with respect to notaries public in this state. The surety or issuing entity shall give 30 days' notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than 30 days after

making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

(e) submit the application, bond, and nonrefundable filing fee to the secretary of state within 30 days before or after the effective date of the surety bond or the expiration of the previous commission.

(5) The secretary of state shall issue a commission for a 4-year term as a notary public to an applicant for a new or a renewed commission who has complied with this section.

(6) An individual may not have more than one Montana notary public commission in effect at the same time.

Section 17. Examination of notary public. (1) An applicant for a commission as a notary public who does not hold a commission in this state shall pass an examination administered by the secretary of state or by an entity approved by the secretary of state. The examination must be based on the course of study described in subsection (2).

(2) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts.

Section 18. Grounds to deny — terms for refusing to renew, revoking, suspending, or conditioning notary public commissions. (1) The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as a notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(a) failure to comply with the provisions of this part;

(b) a fraudulent, dishonest, or deceitful misstatement or omission in the application submitted to the secretary of state for a commission as a notary public;

(c) pending release from supervision, a conviction of the applicant or notary public of any felony or crime involving fraud, dishonesty, or deceit, although conviction of a criminal offense is not a complete bar to receiving a commission if the individual's full rights have been restored;

(d) admission by the applicant or notary public or a finding in any legal proceeding or disciplinary action of the applicant's or notary public's fraud, dishonesty, or deceit;

(e) failure by the notary public to discharge any duty required of a notary public, whether the provisions of this part, rules of the secretary of state, or any state or federal law;

(f) use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary does not have;

(g) violation by the notary public of a rule of the secretary of state regarding a notary public;

(h) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; and

(i) failure of the notary public to maintain an assurance, as provided in [section 16].

(2) If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with the Montana Administrative Procedure Act.

(3) The authority of the secretary of state to deny, refuse to renew, revoke, suspend, or impose conditions on a commission as a notary public does not prevent an individual from seeking and obtaining other criminal or civil remedies provided by law.

Section 19. Authority to refuse to perform notarial act. (1) A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that:

(a) the individual executing the record is competent or has the capacity to execute the record; or

(b) the individual executing the record is not signing knowingly or voluntarily.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a law other than as provided in this part.

Section 20. Signature if individual unable to sign. If an individual intending to execute a record is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of the other individual) at the direction of (name of individual intending to execute the record)" or words with similar intent.

Section 21. Validity of notarial acts. Except as otherwise provided in 1-5-604(4), the failure of a notarial officer to perform a duty or meet a requirement specified in this part does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this part does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this state, other than this part, or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

Section 22. Prohibited acts — advertising requirements. (1) A notary public may not:

(a) notarize the notary's own signature;

(b) notarize a record in which the notary is individually named or from which the notary will directly benefit by a transaction involving the record, including as provided in subsection (2);

(c) certify a copy of a record issued by a public entity, such as a birth, death, or marriage certificate, a court record, or a school transcript unless the notary is employed by the entity issuing or holding the original version of the record;

(d) engage in false or deceptive advertising;

(e) advertise or represent that the notary public, unless also licensed as an attorney in this state, is able to assist persons in drafting legal records, give legal advice, or otherwise practice law. To meet the requirements of this subsection (1)(e), advertising must include the statement provided in subsection (4).

(f) except as otherwise allowed by law, withhold access to or retain possession of an original record provided by a person that seeks performance of a notarial act by the notary public; or

(g) unless the notary public is an attorney licensed to practice law in this state, use the term "notario" or "notario publico".

(2) A notary public who is a partner, stockholder, director, officer, or employee of a partnership or corporation and is individually named in the record or who signs a record as a representative of that partnership or corporation may not notarize the signature of any individual on that record.

(3) A commission as a notary public does not authorize an individual to:

(a) assist persons in drafting legal records, giving legal advice, or otherwise practicing law;

(b) act as an immigration consultant or an expert on immigration matters;

(c) represent a person in a judicial or administrative proceeding relating to immigration to the United States or United States citizenship or related matters; or

(d) receive compensation for performing any of the activities listed in this subsection (3).

(4) (a) A notary public who is not an attorney licensed to practice law in this state shall provide in advertising or other representations regarding an offering of notarial services, whether orally or written, used in broadcast media, print media, or on the internet a statement as provided in subsection (4)(b) or an alternate statement authorized or required by the secretary of state. The statement must be prominently displayed and in each language used in the advertisement or representation. If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of its size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(b) To meet the requirements of subsection (4)(a), a notary public who is not an attorney licensed to practice law in this state shall use either an alternate statement authorized or required by the secretary of state or the following statement:

"I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

Section 23. Fees for notarial acts — collection of fees. (1) A notary public may charge a fee not to exceed $10 for each notarial act:

(a) performing an acknowledgment;

(b) witnessing a signature;

(c) verifying on oath or affirmation;

(d) certifying a transcript; or

(e) certifying a copy.

(2) A notary public may charge an additional fee, as provided by rule, to travel to perform a notarial act if:

(a) the notary public explains to the person requesting the notarial act that the fee:

(i) is in addition to a fee specified in subsection (1);

(ii) is an amount not determined by law; and

(iii) the person requesting the notarial act agrees in advance on the amount of the additional fee; or

(b) the fee charged is equal to or less than the standard mileage rates allowed by the internal revenue service.

(3) If a notary public charges fees under this section for performing notarial acts, the notary public shall display in English a list of the fees the notary public will charge.

(4) A notary public who is employed by a private entity may enter into an agreement with the entity under which fees collected by the notary public under this section are collected by and accrue to the entity.

(5) A public official may collect the fees described in this section for notarial acts performed in the course of employment by notaries public who are employed by the public body.

Section 24. Database of notaries public. The secretary of state shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) that indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

Section 25. Rulemaking. (1) The secretary of state may adopt rules to implement this part.

(2) Rules adopted regarding the performance of notarial acts with respect to electronic records or two-way audio-video communications may not require or accord legal status or effect to the implementation or application of a specific technology or technical specification.

(3) The rules may:

(a) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(b) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(c) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(d) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(e) include provisions to prevent fraud or mistake in the performance of notarial acts;

(f) establish the process for approving and accepting surety bonds and other forms of assurance under [section 16]; and

(g) provide for the administration of the examination under [section 17(1)] and the course of study under [section 17(2)].

(4) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, consistent with this act:

(a) the most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;

(b) the standards, practices, and customs of other jurisdictions that substantially implement the provisions of this part; and

(c) the views of governmental officials and entities as well as other interested persons.

Section 26. Repealer. The following sections of the Montana Code Annotated are repealed:

1-5-401. Appointment.
1-5-402. Qualifications — training — residence.
1-5-403. Term of office — limit on commissions.
1-5-404. Penalties — revocation of commission — prosecution for violation of law.
1-5-405. Bond and commission — dates — fees and documents.
1-5-406. Liabilities on official bond.
1-5-407. Certifying official character of notary.
1-5-408. Fees for filing or amending commission and issuing certificates.
1-5-409. Information to be filed — amendments to commission.
1-5-415. Jurisdiction.
1-5-416. Powers and duties.
1-5-417. Authority of notaries who are stockholders, officers, or employees of banks or other corporations.
1-5-418. Maximum fees of notaries.
1-5-419. Transfer of records upon termination of office.
1-5-420. Powers and duties of secretary of state when records deposited.

Section 27. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 28. Codification instruction. [Sections 12 through 25] are intended to be codified as an integral part of Title 1, chapter 5, part 6, and the provisions of Title 1, chapter 5, part 6, apply to [sections 12 through 25].

Section 29. Saving clause. [This act] does not affect rights and duties related to notarial acts that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 30. Applicability. [This act] applies to notarial acts performed on or after [the effective date of this act] and to the duties of and applications to be a notary public or to renew a notary public commission on or after [the effective date of this act]. The commission of a notary public in effect on [the effective date of this act] remains in effect until the commission's date of expiration.

Approved May 4, 2015

CHAPTER NO. 392

[SB 309]

AN ACT REVISING THE UNLOCKING STATE LANDS PROGRAM TO INCLUDE SPECIFIC FEDERAL LAND; INCREASING THE TAX CREDIT FOR QUALIFIED ACCESS; REVISING CRITERIA FOR PROGRAM PARTICIPATION; AMENDING SECTIONS 15-30-2380 AND 87-1-294, MCA; AMENDING SECTION 6, CHAPTER 346, LAWS OF 2013; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2380, MCA, is amended to read:

"15-30-2380. (Temporary) Credit for unlocking ~~state~~ *public* lands program — *definitions.* (1) A taxpayer is allowed a credit against the taxes

imposed by Title 15, chapter 30 or 31, in the amount of ~~$500~~ *$750* for each qualified access to ~~state~~ *public* land~~, as defined in 77-1-101,~~ that is provided. The maximum credit that a taxpayer may claim in a year under this section is ~~$2,000~~ *$3,000*.

(2) If the amount of the credit exceeds the taxpayer's liability under Title 15, chapter 30 or 31, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable income.

(3) If the property through which access is provided is owned by multiple taxpayers, the taxpayers may claim a proportionate share of the ~~$500~~ *$750* credit based on their respective ownership interests in that property.

(4) If qualified access to the same parcel of ~~state~~ *public* land is provided through separate properties owned by different taxpayers, the taxpayer for each property may claim a ~~$500~~ *$750* credit.

(5) For purposes of this section~~,~~*:*

(a) "public land" means:

(i) state land, as defined in 77-1-101; or

(ii) federal land managed by the U.S. forest service or the bureau of land management; and

(b) (i) "qualified access to ~~state~~ *public* land" means an access *or corridor* established through a taxpayer's property to a parcel of ~~state~~ *public* land for recreational use and certified by the department of fish, wildlife, and parks pursuant to 87-1-294.

(ii) The term does not include a corridor established between two or more parcels of public land when the public land parcels are surrounded by private land that the landowner or landowners have not granted permission to cross and there is no other legal access. (Terminates December 31, 2018—sec. 6, Ch. 346, L. 2013.)"

Section 2. Section 87-1-294, MCA, is amended to read:

"87-1-294. (Temporary) Unlocking ~~state~~ *public* lands program — purpose — commission rulemaking authority. (1) The legislature finds that increasing access to public lands will provide additional opportunities for activities such as hunting, fishing, wildlife viewing, and other recreational activities as determined by the commission.

(2) The department may establish and administer a voluntary program to encourage access through private land to parcels not previously deemed legally accessible to be known as the unlocking ~~state~~ *public* lands program.

(3) Private land is not eligible for the unlocking ~~state~~ *public* lands program if outfitting or commercial hunting restricts public hunting opportunities on that land.

(4) If the parcel not previously deemed legally accessible is leased state land under Title 77, chapter 1, only the lessee with a qualified access to that state land under 15-30-2380 is eligible for the unlocking ~~state~~ *public* lands program.

(5) (a) A contract for participation in the unlocking ~~state~~ *public* lands program is established through a cooperative agreement between the landowner and the department that guarantees reasonable access to ~~state~~ *public* land through the landowner's private land. This contract serves as certification that the landowner is providing qualified access to ~~state~~ *public* land and is eligible for the tax credit identified in 15-30-2380. The contract must include a certification number for identification purposes. The department shall provide a copy of the contract to the landowner and notify the department of

revenue of the certification number. *Contracts may be established with landowners:*

(i) to provide direct access across a landowner's land to a public parcel; or

(ii) who own land adjacent to the point where the corners of two parcels of public land meet. A landowner with a contract pursuant to this subsection (5)(a)(ii) shall grant access through the landowner's land to establish a corridor between the two parcels of public land. At least one of the parcels of public land must be accessible by a public road, waterway, or access granted by a landowner.

(b) Contracts *under subsection (5)* may be established with landowners who, prior to January 1, ~~2014~~ *2016*, provided access to ~~state~~ *public* land that was otherwise not legally accessible under subsection (9). Landowners who establish contracts under this subsection (5)(b) are eligible to receive the tax credit identified in 15-30-2380.

(6) The commission shall develop rules for establishing contracts under this section regarding:

(a) duration of access;

(b) types of qualified access; and

(c) reasonable landowner-imposed limitations.

(7) The department shall provide public notice of any available qualified access to ~~state~~ *public* land established through the unlocking ~~state~~ *public* lands program.

(8) Recreational users of access established by the unlocking ~~state~~ *public* lands program shall remain in the prescribed access route *or corridor* as defined by the contract in subsection (5).

(9) For purposes of this section~~.~~*:*

(a) "parcels not previously deemed legally accessible" means ~~state~~ *public* land that cannot be accessed by:

~~(a)~~*(i)* public road, right-of-way, or easement;

~~(b)~~*(ii)* public waters;

~~(c)~~*(iii)* adjacent federal, state, county, or municipal land that is open to public use; or

~~(d)~~*(iv)* adjacent private land because that landowner has not granted permission to cross~~.~~*; and*

(b) "public land" means:

(i) state land, as defined in 77-1-101; or

(ii) federal land managed by the U.S. forest service or the bureau of land management. (Terminates December 31, 2018—sec. 6, Ch. 346, L. 2013.)"

Section 3. Section 6, Chapter 346, Laws of 2013, is amended to read:

"**Section 6. Termination.** [This act] terminates December 31, ~~2018~~ *2020*."

Section 4. Effective date. [This act] is effective January 1, 2016.

Section 5. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Approved May 4, 2015

CHAPTER NO. 393

[SB 312]

AN ACT REVISING UTILITY UNIVERSAL SYSTEM BENEFITS PROGRAMS; REQUIRING THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE TO REVIEW REPORTS; CLARIFYING LARGE CUSTOMER ANNUAL REPORTING REQUIREMENTS; PROVIDING PENALTIES FOR UTILITIES AND LARGE CUSTOMERS THAT FAIL TO FILE UNIVERSAL SYSTEM BENEFITS REPORTS; AMENDING SECTIONS 69-8-402 AND 69-8-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's utility shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility *or large customer* shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies,

such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) ~~Large~~ *Large* customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim

committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); ~~and~~

(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements*; and*

(iv) the names of all large customers who either utilized credits to minimize or eliminate their charge pursuant to subsection (7) or received a reimbursement for universal system benefits related to expenditures from the utility during the previous reporting year.

(b) Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall*:*

(i) review the universal system benefits programs and, if necessary, submit recommendations regarding these programs to the legislature*; and*

(ii) review annual universal system benefits reports provided by utilities in accordance with subsection (8)(a) and compare those reports with reports provided by large customers to the department of revenue in accordance with subsection (10)(a) and identify large customers, if any, who are not in compliance with reporting requirements in accordance with this subsection (8) and subsection (10).

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. *A report must be filed with the department even if a large customer is being reimbursed for a prior year's project.* The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by ~~the department of revenue or~~ the utility is not required, except as provided in subsection ~~(10)(b)~~ *(10)(b)*.

(b) If a large customer claims a credit that the department of revenue ~~disallows~~ *disallows* in whole or in part, the large customer is financially responsible for the ~~disallowance~~ *disallowance*. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent ~~disallowance~~ *disallowance*."

Section 2. Section 69-8-414, MCA, is amended to read:

"69-8-414. Universal system benefits programs credit review process — *penalties.* (1) *(a)* All annual reports required pursuant to 69-8-402(8) and (10) must be filed with the department of revenue on March 1 of each year.

(b) Except as provided in subsection (1)(c), a utility or large customer who fails to file a report in accordance with subsection (1)(a) is subject to an administrative penalty of not less than $1,000 or more than $5,000.

(c) The department may not impose a penalty pursuant to this subsection (1) unless the department:

(i) provides notice to a utility or a large customer of the failure to file a timely report in accordance with 69-8-402(8) or (10); and

(ii) does not receive a report from the utility or a large customer within 20 business days of the notice required pursuant to subsection (1)(c)(i).

(d) Any penalties recovered by the department must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(b).

(2) Except as provided in ~~69-8-413~~ *69-8-413*, upon a challenge by an interested person, the department of revenue shall ensure that the credit claimed is consistent with this chapter. An interested person may file comments challenging the claim, including supporting documentation, with the department of revenue. A challenge of any claimed credit must be filed within 60 days of the department of revenue's receipt of the credit claimant's annual reports required pursuant to 69-8-402(8) and (10).

(3) ~~Claimed~~ *Claimed* credits are presumed to be correct unless challenged by an interested person. If a challenge is filed by an interested person, the department of revenue shall conduct an initial review of a challenged credit and shall make a determination as to the likelihood that the challenged credit qualifies for universal system benefits programs. If the department of revenue finds that the challenged credit is not likely to qualify for universal system benefits programs, the department of revenue shall formally review the challenge; otherwise, the department of revenue shall dismiss the challenge and provide a statement of the reasons supporting dismissal of the challenge. The department of revenue may request additional information from the credit claimant or interested person. The department of revenue shall complete the initial review within 30 days of the challenge.

(4) If the department of revenue determines that a formal review of a ~~challenged~~ *challenged* credit is necessary, the department of revenue shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The department of revenue may also schedule an oral hearing. If a hearing is scheduled, the department of revenue shall provide public notice of the hearing to the credit claimant and interested persons.

(5) For a formal credit review challenge, the following procedures apply:

(a) The credit claimant shall provide documentation supporting the credit claimed to the department of revenue and to all interested persons, subject to department of revenue protective orders for confidential or sensitive materials, upon a showing of a privacy interest by the credit claimant.

(b) The department of revenue shall make all materials related to the claim, the challenge, and the submitted comments available to the credit claimant and for public inspection and photocopying, subject to any department of revenue protective orders.

(c) The credit claimant may respond in writing to any comments and other documents filed by an interested person.

(d) The department of revenue may ask for additional detailed information to implement this section.

(6) Upon completing a formal review of a ~~challenged~~ *challenged* credit, the department of revenue shall make a decision to certify or to deny the credit claimed, providing a statement of the reasons supporting the department of revenue's decision. The formal review of a challenged credit, including the department of revenue's final decision, must be completed within 60 days of the department of revenue's public notice of the opportunity to comment on the challenged credit."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to annual reports filed with the department of revenue and the energy and telecommunications interim committee on or after March 1, 2016.

Approved May 4, 2015

CHAPTER NO. 394

[SB 326]

AN ACT REVISING LAWS RELATED TO RECREATIONAL USE OF STATE LANDS; REQUIRING PUBLIC NOTICE PRIOR TO LAND CLOSURES AND RESTRICTIONS ON GENERAL RECREATIONAL USE; SETTING CAMPING LIMITS; PROVIDING RULEMAKING AUTHORITY; REQUIRING REPORTING TO THE ENVIRONMENTAL QUALITY COUNCIL; AMENDING SECTION 77-1-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-804, MCA, is amended to read:

"77-1-804. Rules for recreational use of state lands — penalty. (1) The board shall adopt rules authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local offices of the department to administer this program whenever practical.

(2) Rules adopted under this section must address the circumstances under which the board may close legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative or upon petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency, seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and opportunity for public hearing in the area of the proposed closure, except when the department is acting under rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee *or by the department at the request of the lessee* at customary access points, with signs provided or authorized by the department.

(3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due to:

(a) cabin site and home site leases and licenses;

(b) the seasonal presence of growing crops; and

(c) active military, commercial, or mineral leases.

(4) The board shall adopt rules that provide an opportunity for any individual, organization, or governmental agency to petition the board for purposes of excluding a specified portion of state land from a categorical closure that has been imposed under subsection (3).

(5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain reasons, including but not limited to:

(a) damage attributable to recreational use that diminishes the income-generating potential of the state lands;

(b) damage to surface improvements of the lessee;

(c) the presence of threatened, endangered, or sensitive species or plant communities;

(d) the presence of unique or special natural or cultural features;

(e) wildlife protection;

(f) noxious weed control; or

(g) the presence of buildings, structures, and facilities.

(6) *(a)* Rules adopted under this section may impose restrictions ~~upon~~ *on* general recreational activities, including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the presence of livestock.

(b) The board may also by rule restrict access on state lands in accordance with a block management program administered by the department of fish, wildlife, and parks.

(c) Motorized vehicle use by recreationists on state lands is restricted to federal, state, and dedicated county roads*, trails developed by the department for motorized use,* and ~~to those~~ roads designated by the department to be open to motorized vehicle use.

(d) Recreational overnight use of state lands in a 30-day period is limited to 16 days:

(i) in a designated campground; and

(ii) on unleased, unlicensed lands outside a campground unless otherwise allowed by the department.

(e) Pets on state lands must be on a leash or otherwise controlled to prevent harassment of livestock or wildlife.

(f) Horses may be kept overnight on state lands if:

(i) the horses do not remain in a stream riparian zone for more than 1 hour; and

(ii) only feed certified as noxious weed seed free is present on state lands.

(g) A horse kept overnight on state lands where there is a lease or license must be kept in compliance with the provisions of subsection (6)(f) and must be restrained.

(h) Restrictions on general recreational activities must comply with the following:

(i) at least 30 days prior to a restriction, except in the case of emergency, the lessee or the department if requested by the lessee shall:

(A) post notice of the proposed restriction at frequent access points to the land where the restriction is proposed; and

(B) issue a press release or a public service announcement detailing the proposed restriction;

(ii) except for seasonal restrictions and unless required for public safety, a restriction in an area may not exceed 1 year; and

(iii) if a misuse of the land, including littering, may lead to a restriction, common access points must be posted with notice of the possible restriction for 30 days with information detailing the misuse of land and stating the penalties for the violation. If the misuse persists at the end of 30 days, a proposed restriction notice may be posted in accordance with subsection (6)(h)(i).

(7) The board shall adopt rules providing for the issuance of a recreational special use license. Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs under the provisions of a recreational special use license. The board may also adopt rules requiring a

recreational special use license for recreational use that is not commercial, concentrated, or within the definition of general recreational use.

(8) For a violation of rules adopted by the board pursuant to this section, the department may assess a civil penalty of up to $1,000 for each day of violation. The board shall adopt rules providing for notice and opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection must be deposited as provided in 87-1-601(8).

(9) Unauthorized dumping of refuse on state lands and destruction of property, which includes land and improvements, are misdemeanor crimes punishable by a fine of not more than $1,500."

Section 2. Reporting requirements. (1) On or before September 1 of each year preceding the convening of a regular session of the legislature, the department shall provide a report to the environmental quality council in accordance with 5-11-210.

(2) The report must include:

(a) existing road closures and restrictions on state lands;

(b) anticipated road closures and restrictions on state lands; and

(c) ongoing travel management planning on state lands or foreseeable travel management planning by the department or by the department in conjunction with federal agencies conducting travel management planning that may impact state lands.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 77, chapter 1, part 8, and the provisions of Title 77, chapter 1, part 8, apply to [section 2].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 4, 2015

CHAPTER NO. 395

[SB 375]

AN ACT REVISING THE MAXIMUM SPEED LIMITS FOR CERTAIN VEHICLES TRAVELING ON CERTAIN HIGHWAYS; REVISING FINES FOR SPEEDING VIOLATIONS; AUTHORIZING THE TRANSPORTATION COMMISSION TO ESTABLISH TEMPORARY SPEED LIMITS; AMENDING SECTIONS 61-8-303, 61-8-309, 61-8-312, 61-8-725, AND 61-11-203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions. (1) Except as provided in 61-8-309, 61-8-310, and 61-8-312, the speed limit for vehicles traveling:

(a) on a federal-aid interstate highway outside an urbanized area of 50,000 population or more is ~~75~~ *80* miles an hour at all times and the speed limit for vehicles traveling on federal-aid interstate highways within an urbanized area of 50,000 population or more is 65 miles an hour at all times;

(b) on any other public highway of this state is 70 miles an hour during the daytime and 65 miles an hour during the nighttime;

(c) in an urban district is 25 miles an hour.

(2) A vehicle subject to the speed limits imposed in subsection (1) traveling on a two-lane road may exceed the speed limits imposed in subsection (1) by 10

miles an hour in order to overtake and pass a vehicle and return safely to the right-hand lane.

(3) Subject to the maximum speed limits set forth in subsection (1), a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into account the amount and character of traffic, visibility, weather, and roadway conditions.

(4) Except when a special hazard exists that requires lower speed for compliance with subsection (3), the limits specified in this section are the maximum lawful speeds allowed.

(5) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(6) The speed limits set forth in this section may be altered by the transportation commission or a local authority as authorized in 61-8-309, 61-8-310, 61-8-313, and 61-8-314."

Section 2. Section 61-8-309, MCA, is amended to read:

"61-8-309. Establishment of special speed zones — engineering and traffic investigation. (1) (a) If the commission determines upon the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 *or 61-8-312* is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, or dangerous location or on a segment of a highway less than 50 miles in length under its jurisdiction, the commission may set a reasonable and safe special speed limit at that location. In the case of a school zone adjacent to a state highway, the commission is not required to base its speed limit determination solely upon the results of the engineering and traffic investigation.

(b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the jurisdiction of the department of transportation is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation.

(c) (i) A local authority may request at its own expense that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii).

(ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by 7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list must be updated every 2 years.

(iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department of transportation.

(d) A local authority may request a temporary special reduced or increased speed zone for a route or route segment that is under consideration for a reduced

or increased speed limit under subsection (1)(a), (1)(b), or (1)(c). If a local authority makes multiple requests for temporary special reduced or increased speed zones, the local authority shall prioritize the requests. The department of transportation shall conduct a preliminary visual and engineering review of a route or a route segment for which a temporary special speed zone is requested. The reviewing party must include a representative of the local authority. Upon completion of the preliminary review, if the department of transportation concurs with the local authority that a temporary special reduced or increased speed limit is warranted, a temporary special reduced or increased speed zone may be established upon formal approval by the commission. The temporary special reduced or increased speed limit remains in effect until a complete traffic and engineering study has been done on the route or route segment and the commission has made a determination on changing the speed limit.

(2) Pending completion of an engineering and traffic investigation as provided for in subsection (1), the commission may temporarily set a speed limit of not less than 75 miles an hour on a segment of the federal-aid interstate highway system that it reasonably believes is not suitable for the limit established in 61-8-303(1)(a).

~~(2)~~*(3)* The department of transportation shall erect and maintain appropriate signs giving notice of special limits. If the special limits apply to a school zone, the department shall consider the use of electronic signs in lieu of or in addition to other appropriate signs. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets.

~~(3)~~*(4)* The authority of the commission under this section includes the authority to set reduced nighttime speed limits on curves and other dangerous locations.

~~(4)~~*(5)* This section does not authorize the commission to set a statewide speed limit.

~~(5)~~*(6) (a)* The violation of a speed limit established under this section*, except subsection (2),* is a misdemeanor offense and is punishable as provided in 61-8-711.

(b) The violation of a speed limit established under subsection (2) is punishable as provided in 61-8-725."

Section 3. Section 61-8-312, MCA, is amended to read:

"61-8-312. Special speed limitations on trucks, truck tractors, and motor-driven cycles. (1) Except as provided in 61-8-303, 61-8-309, 61-8-310, and subsection (2) of this section, the speed limit for a truck or truck tractor of more than 1 ton "manufacturer's rated capacity" traveling on:

(a) a federal-aid interstate highway is 65 miles an hour; and

(b) any other public highway is 60 miles an hour during the daytime and 55 miles an hour during the nighttime as those terms are defined in 61-8-303.

(2) Except as provided in 61-8-303, 61-8-309, and 61-8-310, the speed limit for a vehicle subject to a term permit under 61-10-124(2)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles subject to special permits under 61-10-124(4) is ~~55~~ *65* miles an hour unless otherwise stated in the permit.

(3) A person may not operate a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles an hour unless the motor-driven cycle is equipped with a headlamp or lamps that are adequate to reveal a person or vehicle at a distance of 300 feet ahead."

Section 4. Section 61-8-725, MCA, is amended to read:

"61-8-725. Penalty for violation of speed limits — no record for certain violations. (1) A person ~~violating the speed limit imposed pursuant to 61-8-303~~ shall be fined *for violating the maximum speed limit* in accordance with the following ~~schedule~~ *schedules*:

(a) for a violation of 61-8-303(1)(a):

Amount of Fine	*MPH in Excess of Speed Limit*
$40	*1 - 10 (daytime)*
40	*1 - 10 (nighttime)*
70	*11 - 20*
120	*21 - 30*
200	*31+*

(b) for a violation of 61-8-303(1)(b), 61-8-309, or 61-8-312:

Amount of Fine	MPH in Excess of Speed Limit
$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
~~40~~ *70*	11 - 20
~~70~~ *120*	21 - 30
~~100~~ *200*	31+

(2) *(a)* A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection *(2)(b) or* (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

~~(a)~~*(i)* 10 miles an hour during the daytime; or

~~(b)~~*(ii)* 5 miles an hour during the nighttime.

(b) If a driver is guilty of exceeding 90 miles per hour in violation of 61-8-303(1)(a), the violation may be recorded or charged against a driver's record and an insurance company may hold the violation against an insured driver's premium.

(3) The surcharge provided for in 3-1-317 may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle.

(5) This section does not apply to the violation of a special speed zone established under 61-8-309 or 61-8-310."

Section 5. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions — habitual traffic offenders — point schedule. (1) As used in this part, the following definitions apply:

(a) "Conviction" has the meaning provided in 61-5-213.

(b) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in subsection (2).

(c) "License" means any type of license or permit to operate a motor vehicle.

(d) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway.

(e) "Traffic regulation" includes any provision governing motor vehicle operation, equipment, safety, or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking.

(2) Subject to subsection (3), the point schedule used to determine whether an individual is a habitual traffic offender is as follows:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of $250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.

(l) speeding, except as provided in 61-8-725(2)*(a)*, 3 points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant."

Approved May 4, 2015

CHAPTER NO. 396

[SB 380]

AN ACT INCREASING THE AMOUNT OF FUNDS AVAILABLE FROM THE PERMANENT COAL TAX TRUST FUND FOR THE MONTANA VETERANS' HOME LOAN MORTGAGE PROGRAM; AMENDING SECTIONS 17-6-308 AND 90-6-603, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (5) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer $15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall allow the board of housing to administer ~~$30~~ *$40* million of the permanent coal tax trust fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

(6) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(7) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund."

Section 2. Section 90-6-603, MCA, is amended to read:

"90-6-603. Veterans' home loan mortgage program created — use of coal tax trust fund money. (1) There is a Montana veterans' home loan mortgage program under the direction and management of the board for eligible veterans who are first-time home buyers.

(2) The board of investments shall allow the board to administer ~~$30~~ *$40* million of the permanent coal tax trust fund for the purpose of the program. Until the board uses money in the trust fund to purchase a mortgage loan from a participating financial institution pursuant to this part, the money under the administration of the board must remain invested by the board of investments. As a loan made pursuant to this part is repaid, the principal payments on the loan must be deposited in the trust fund until all of the principal of the loan is repaid. Interest received on the loan may be used by a participating financial institution and the board, in amounts determined by the board in accordance with 90-6-605, to pay for the origination and servicing of a loan by a participating financial institution and to pay the reasonable costs of the board for the administration of the program. After payment of associated expenses, interest received on the loan must be deposited into the trust fund.

(3) Interest on a home mortgage loan made pursuant to this part must be charged at 1% less than the federal national mortgage association's delivery rate or 1% lower than the lowest interest rate charged by the board for the purposes of other home loan mortgage programs administered by the board, whichever is less. If the federal national mortgage association's rate becomes unavailable, the board shall use another similar rate for the purposes of this subsection. The board may not make a direct loan to an eligible veteran."

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved May 4, 2015

CHAPTER NO. 397

[SB 386]

AN ACT REVISING FILING AND WITHHOLDING REQUIREMENTS FOR PASS-THROUGH ENTITIES AND LIMITING THE LATE FILING PENALTY; PROVIDING SIMPLIFICATION OF PASS-THROUGH ENTITY COMPLIANCE REQUIREMENTS; ELIMINATING CONSENT AGREEMENTS BY SECOND-TIER PASS-THROUGH ENTITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-3302 AND 15-30-3313, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-3302, MCA, is amended to read:

"15-30-3302. Income or license tax involving pass-through entities — information returns required. (1) Except as otherwise provided:

(a) a partnership is not subject to taxes imposed in Title 15, chapter 30 or 31;

(b) an S. corporation is not subject to the taxes imposed in Title 15, chapter 30 or 31; and

(c) a disregarded entity is not subject to the taxes imposed in Title 15, chapter 30 or 31.

(2) Except as otherwise provided, each partner of a partnership described in subsection (1)(a), each shareholder of an S. corporation described in subsection (1)(b), and each partner, shareholder, member, or other owner of an entity described in subsection (1)(c), the first-tier pass-through entity, is subject to the taxes provided in this chapter, if an individual, trust, or estate, and to the taxes provided in Title 15, chapter 31, if a C. corporation. If a partner, shareholder, member, or other owner of an entity described in subsection (1) is itself a pass-through entity, any individual, trust, or estate to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in this chapter and any C. corporation to which the first-tier pass-through entity's Montana source income is directly or indirectly passed through is subject to the taxes provided in Title 15, chapter 31.

(3) Income realized for federal income tax purposes by a financial institution that has elected to be treated as an S. corporation under subchapter S. of Chapter 1 of the Internal Revenue Code and by its shareholders that is attributable to the financial institution's change from the bad debt reserve method of accounting provided in section 585 of the Internal Revenue Code, 26 U.S.C. 585, is not taxable under Title 15, chapter 30 or 31, to the extent that the aggregate deductions allowed for federal income tax purposes under 26 U.S.C. 585 exceeded the aggregate deductions that the financial institution is allowed under 15-31-114(1)(b)(i).

(4) A publicly traded partnership as defined in section 7704(b) of the Internal Revenue Code, 26 U.S.C. 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code is exempt from paying tax under Title 15, chapter 30, as long as it is in compliance with 15-30-3313.

(5) (a) Subject to the due date provision in 15-30-2604(1)(b), a partnership that has Montana source income shall on or before the 15th day of the 4th month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal partnership return. The return must include:

(i) the name, address, and social security or federal identification number of each partner;

(ii) the partnership's Montana source income;

(iii) each partner's distributive share of Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;

(iv) each partner's distributive share of income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and

(v) any other information the department prescribes.

(b) Subject to the due date provision in 15-30-2604(1)(b), an S. corporation that has Montana source income shall on or before the 15th day of the 3rd month following the close of its annual accounting period file an information return on forms prescribed by the department and a copy of its federal S. corporation return. The return must include:

(i) the name, address, and social security or federal identification number of each shareholder;

(ii) the S. corporation's Montana source income and each shareholder's pro rata share of separately and nonseparately stated Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit;

(iii) each shareholder's pro rata share of separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and

(iv) any other information the department prescribes.

(c) A disregarded entity that has Montana source income shall furnish the information and file the returns the department prescribes. The return must include:

(i) the name, address, and social security or federal identification number of each member or other owner during the tax year;

(ii) the entity's Montana source income; and

(iii) any other information the department prescribes.

(d) (i) Except as provided in subsection (5)(d)(ii), a pass-through entity that fails to file an information return required by this section by the due date, including any extension, must be assessed a late filing penalty of $10 multiplied by the number of the entity's partners, shareholders, members, or other owners at the close of the tax year for each month or fraction of a month, not to exceed 5 months, that the entity fails to file the information return. *The penalty may not exceed $2,500 for any one tax period.* The department may waive the penalty imposed by this subsection (5)(d)(i) as provided in 15-1-206.

(ii) The penalty imposed under subsection (5)(d)(i) may not be imposed on a pass-through entity that has 10 or fewer partners, shareholders, members, or other owners, each of whom:

(A) is an individual, an estate of a deceased individual, or a C. corporation;

(B) has filed any required return or other report with the department by the due date, including any extension of time, for the return or report; and

(C) has paid all taxes when due."

Section 2. Section 15-30-3313, MCA, is amended to read:

"15-30-3313. Consent or withholding — *rulemaking*. (1) A pass-through entity that is required to file an information return as provided in 15-30-3302 and that ~~has~~ *reports a distributive share of income of $1,000 or more of Montana source income during the tax year to* a partner, shareholder, member, or other owner who is a nonresident individual, a foreign C. corporation, *any other entity, organization, or account whose principal place of business or administration is outside the state of Montana,* or *that is itself* a pass-through entity ~~that itself has any partner, shareholder, member, or other owner that is a nonresident individual, foreign C. corporation, or pass-through entity~~ shall, on or before the due date, including extensions, for the information return:

(a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

(i) file a composite return;

(ii) file an agreement of the individual nonresident to:

(A) file a return in accordance with the provisions of 15-30-2602;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by the nonresident individual's share of Montana source income reflected on the pass-through entity's information return;

(b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:

(i) file a composite return;

(ii) file the foreign C. corporation's agreement to:

(A) file a return in accordance with the provisions of 15-31-111;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes, corporate income taxes, and alternative corporate income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C. corporation's share of Montana source income reflected on the pass-through entity's information return; and

(c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also referred to in this section as a "second-tier pass-through entity":

(i) file a composite return; *or*

(ii) ~~file a statement of the pass-through entity partner, shareholder, member, or other owner setting forth the name, address, and social security or federal identification number of each of that entity's partners, shareholders, members, or other owners and information that establishes that its share of Montana source income will be fully accounted in individual income tax, corporate income tax, or alternative corporate income tax returns filed with the state; or~~

~~(iii)~~ remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by its share of Montana source income reflected on the pass-through entity's information return.

(2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the nonresident individual a record of the amount of tax paid on the ~~individual's~~ *taxpayer's* behalf.

(3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the alternative corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

(4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant to subsection ~~(1)(c)(iii)~~ *(1)(c)(ii)* must be considered as payment on the account of the individual, trust, estate, or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner on behalf

of which the amount was paid. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

(5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii), (1)(b)(iii), or ~~(1)(c)(iii)~~ *(1)(c)(ii)* from the partner, shareholder, member, or other owner on whose behalf the payment was made.

(6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

(7) *(a)* A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information return reporting the name, address, and taxpayer identification number for each person or entity that has an interest in the partnership that results in Montana source income or that has sold its interest in the partnership during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its obligation to pay Montana income taxes.

(b) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) if one or more publicly traded partnerships has a direct or indirect majority interest in the income distributed by the pass-through entity. The pass-through entity shall apply to the department in writing for the waiver of the withholding requirements set forth in subsection (1)(c).

(c) Waivers issued by the department prior to January 1, 2016, to pass-through entities in which a publicly traded partnership has a direct or indirect majority interest will remain in effect in accordance with the law and rules in effect at the time the waiver was granted.

(d) The department shall adopt rules outlining the requirements for the waiver request.

(8) (a) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) for any partner, shareholder, member, or other owner that is a domestic second-tier pass-through entity if:

(i) the pass-through entity files a statement setting forth the name, address, and social security or federal identification number of each of the domestic second-tier pass-through entity's partners, shareholders, members, or other owners; and

(ii) the information establishes that the domestic second-tier pass-through entity's share of Montana source income should be fully accounted for in a resident individual income tax return.

(b) For purposes of this subsection (8), a "domestic second-tier pass-through entity" is a pass-through entity whose interest is entirely held, either directly or indirectly, by one or more resident individuals.

(c) Subsequent to the initial approval of a waiver, the department may revoke the waiver if it determines that the partner, shareholder, member, or other owner no longer qualifies.

~~(8)~~*(9)* Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the extent of the taxpayer's business activity in the state.

(10) The department may adopt rules to administer and enforce the provisions of this section."

Section 3. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Approved May 4, 2015

CHAPTER NO. 398

[SB 393]

AN ACT REVISING THE FEES FOR FILING VARIOUS SECURITY INTERESTS IN A MOTOR VEHICLE; REVISING THE APPLICATION FEES FOR AN ORIGINAL CERTIFICATE OF TITLE OR A REPLACEMENT CERTIFICATE OF TITLE TO A VEHICLE; CLARIFYING DISPOSITION OF THE FEES FOR SECURITY INTEREST FILINGS AND FOR ORIGINAL AND REPLACEMENT VEHICLE CERTIFICATES OF TITLE; PROVIDING FOR DRIVER'S LICENSE RENEWAL ONLINE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-3-103, 61-3-203, 61-3-204, 61-3-550, AND 61-5-111, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-103, MCA, is amended to read:

"61-3-103. Filing of security interests — perfection — rights — procedure — fees. (1) (a) Except as provided in subsection (2), the department, its authorized agent, or a county treasurer shall, upon payment of the fee required by subsection (8), enter a voluntary security interest or lien against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile upon receipt of a written acknowledgment of a voluntary security interest or lien by the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile on a form prescribed by the department.

(b) After the voluntary security interest or lien has been entered on the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the department, its authorized agent, or a county treasurer shall issue a transaction summary receipt to the owner and, if requested, to the secured party or lienholder, showing the date that the security interest or lien was perfected.

(c) A voluntary security interest or lien is perfected on the date that the department, its authorized agent, or a county treasurer receives the written acknowledgment of the voluntary security interest or lien from the owner of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

(d) Except as provided in subsection (3), when a person applying for a certificate of title requests issuance of a certificate of title under 61-3-201, the department shall record the voluntary security interest or lien on the face of a certificate of title.

(2) A security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile held as

inventory by a dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is subject to two security interests previously perfected under this section and the applicant has requested issuance of a certificate of title under 61-3-201, the department shall endorse on the face of the certificate of title, "NOTICE. This vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests is not required to be endorsed on the certificate.

(4) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(5) A secured party or lienholder who has a perfected security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and who fails to file a satisfaction of the security interest or lien within 21 days after receiving final payment is required to pay the department $25 for each day that the secured party or lienholder fails to file the satisfaction.

(6) Within 24 hours after receiving notice of any involuntary liens or attachments against the record of any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile registered in this state, the department shall mail to the owner or any secured party or lienholder of record a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(7) (a) This section does not prevent a secured party or lienholder from assigning the secured party's or lienholder's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, for which a certificate of title is issued under this chapter, to any other person without the consent of and without affecting the interest of the holder of the certificate of title.

(b) If a secured party assigns all or part of the party's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title is issued under this chapter, the secured party assigning the interest shall file a copy of the assignment with the department and the department shall record the assignment in the department's records.

(8) (a) A fee must be paid to the department to file any security interest or other lien against a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The fee covers the cost of entering and, upon the subsequent satisfaction or release, of removing the security interest or lien from the electronic record of title.

(b) Beginning January 1, 2002, and ending June 30, ~~2016~~ *2019*, the fee is $8. Of the $8 fee, $4 must be deposited in the state general fund in accordance with

15-1-504. The remaining $4 must be forwarded to the state for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(c) Beginning July 1, ~~2016~~ *2019*, the fee is $4 and must be deposited in the state general fund.

(9) (a) ~~Until June 30, 2018, a~~ *Until June 30, 2026, a* fee of $10 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. ~~Beginning July 1, 2018, the fee for a new certificate of title under this subsection is $5.~~ *Beginning July 1, 2026, the fee for a new certificate of title under this subsection is $5.*

(b) ~~Until June 30, 2018, the $10~~ *Until June 30, 2026, the* fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550.

~~(c) Beginning July 1, 2018, the $5 fee must be deposited in the state general fund.~~

(c) Beginning July 1, 2026, the $5 fee must be deposited in the state general fund."

Section 2. Section 61-3-203, MCA, is amended to read:

"61-3-203. Fee for original certificate of title — disposition. (1) ~~(a) Until June 30, 2018, a~~ *Until June 30, 2026, a* person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of:

~~(i)~~*(a)* $10 if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that weighs less than 1 ton; or

~~(ii)~~*(b)* $12 if the vehicle for which application is made is a light vehicle or a truck or bus that weighs less than 1 ton.

~~(b)~~*(2)* The amount of $5 of the fee imposed pursuant to subsection (1)~~(a)~~ must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550, and the remaining amount must be deposited in the state general fund.

~~(2) Beginning July 1, 2018, the fee imposed in subsection (1)(a)(i) is $5 and the fee imposed in subsection (1)(a)(ii) is $7 and all fees paid pursuant to this section must be deposited in the state general fund.~~

(3) Beginning July 1, 2026, the fee imposed in subsection (1)(a) is $5 and the fee imposed in subsection (1)(b) is $7 and all fees paid pursuant to this section must be deposited in the state general fund."

Section 3. Section 61-3-204, MCA, is amended to read:

"61-3-204. Replacement certificate of title — application. (1) (a) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of $10.

(b) ~~Until June 30, 2018,~~ *The amount of* $5 of the fee must be deposited in the state general fund in accordance with 15-1-504, and the remaining $5 must be

deposited in the motor vehicle information technology system account provided for in 61-3-550.

~~(c) Beginning July 1, 2018, the fee for a replacement certificate of title is $5 and the entire fee must be deposited in the state general fund.~~

(c) Beginning July 1, 2026, the fee for a replacement certificate of title is $5 and the entire fee must be deposited in the state general fund.

(2) Each replacement certificate of title issued by the department must contain the following statement: "This replacement voids any previously issued title.""

Section 4. Section 61-3-550, MCA, is amended to read:

"61-3-550. Motor vehicle information technology system account. (1) There is a motor vehicle information technology system account in the state special revenue fund provided for in 17-2-102.

(2) (a) Until June 30, ~~2016~~ *2019*, $4 of the fee received by the department pursuant to 61-3-103(8) for a security interest or other lien must be deposited in the account.

(b) ~~Until June 30, 2018, fees~~ *Until June 30, 2026, fees* received by the department pursuant to 61-3-103(9) and $5 of each fee received under 61-3-203 or 61-3-204 for a certificate of title must be deposited in the account.

(3) The money in the motor vehicle information technology system account must be appropriated by the legislature to the department of justice and must be used by the department for the purpose of:

(a) repaying any indebtedness or loan incurred for the creation of a new information technology system for motor vehicles; or

(b) payment of costs directly incurred in the creation and support of the new motor vehicle information technology system."

Section 5. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, ~~renewal by mail,~~ license expirations, grace period, and fees for licenses, permits, and endorsements — notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, Montana residence address unless the licensee requests use of the mailing address, and a brief description of the licensee;

(iv) either the licensee's customary *manual* signature or a ~~digital~~ reproduction of the licensee's customary *manual* signature; and

(v) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

(b) The department may not use the licensee's social security number as the distinguishing number ~~unless the licensee expressly authorizes the use~~. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections ~~(3)(d)(iv)~~ *(3)(d)(iii)* through (3)(d)(vi), a person may renew a driver's license by mail ~~if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license. A person may not renew by mail for a subsequent license term after a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty may renew a driver's license by mail for one additional consecutive term following a mail renewal~~ *or online*.

(ii) An applicant who renews a driver's license by mail *or online* shall submit to the department an approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph ~~or~~ *and* signature record of the renewal applicant from the expiring license, then the ~~department may require the~~ renewal applicant ~~to submit a personal photograph and signature that meets the requirements prescribed by the department~~ *shall apply in person*.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail *or online* is 8 years.

(v) The department may not renew a license by mail *or online* if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant; ~~or~~

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572*;*

(C) the applicant seeks a change of address or a name change; or

(D) the applicant's license:

(I) has been expired for 3 months or longer; or

(II) except as provided in subsection (3)(e), was renewed by mail or online at the time of the applicant's previous renewal.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail *or online*.

(e) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

~~(e)~~*(f)* The department shall mail a driver's license renewal notice no earlier than ~~60~~ *90* days and no later than 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the department shall mail the notice to the Montana mailing address shown on the driver's license.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 5 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(f) The department may adopt rules to implement online driver's license renewal.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license — $5 a year or fraction of a year;

(ii) motorcycle endorsement — 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate — $10 a year or fraction of a year; or

(B) intrastate — $8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement."

Section 6. Effective dates — applicability. (1) Except as provided in subsection (2), [this act] is effective October 1, 2015.

(2) [Section 5] is effective January 1, 2017, and applies to driver's license renewals occurring after December 31, 2016.

Approved May 4, 2015

CHAPTER NO. 399

[SB 409]

AN ACT REVISING METAL MINE RECLAMATION LAWS; ESTABLISHING STANDARDS FOR TAILINGS STORAGE FACILITIES; ESTABLISHING A FEE; DEFINING TERMS; CREATING INDEPENDENT REVIEW PANELS; PROVIDING FOR REVIEWS AND INSPECTIONS; PROVIDING ENFORCEMENT; AMENDING SECTIONS 82-4-301, 82-4-303, 82-4-305, 82-4-335, 82-4-336, 82-4-337, AND 82-4-342, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-301, MCA, is amended to read:

"82-4-301. Legislative intent and findings. (1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted this part.

(2) It is the legislature's intent that*:*

(a) the requirements of this part provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources*;*

(b) tailings storage facilities are designed, operated, monitored, and closed in a manner that:

(i) meets state-of-practice engineering design standards;

(ii) uses applicable, appropriate, and current technologies and techniques as are practicable given site-specific conditions and concerns; and

(iii) provides protection of human health and the environment; and

(c) the regulation of tailings storage facilities is not prescriptive in detail but allows for adaptive management using evolving best engineering practices based on the recommendations of qualified, experienced engineers.

~~(2)~~*(3)* The extraction of mineral by mining is a basic and essential activity making an important contribution to the economy of the state and the nation. At the same time, proper reclamation of mined land and former exploration areas not brought to mining stage is necessary to prevent undesirable land and surface water conditions detrimental to the general welfare, health, safety, ecology, and property rights of the citizens of the state. Mining and exploration for minerals take place in diverse areas where geological, topographical, climatic, biological, and sociological conditions are significantly different, and *the specifications for* reclamation ~~specifications~~ *and tailings storage facilities* must vary accordingly. It is not practical to extract minerals or explore for minerals required by our society without disturbing the surface or subsurface of the earth and without producing waste materials, and the very character of many types of mining operations precludes complete restoration of the land to its original condition. The legislature finds that land reclamation *and tailings storage* as provided in this part will allow exploration for and mining of valuable minerals while adequately providing for the subsequent beneficial use of the lands to be reclaimed."

Section 2. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.

(3) "Board" means the board of environmental review provided for in 2-15-3502.

(4) "Certification" means, with regard to tailings storage facilities, a statement of opinion by a professional engineer that the work on a tailings storage facility has been conducted in accordance with the normal standard of care within dam engineering practice. Certification does not constitute a warranty or guarantee of facts or conditions certified.

~~(4)~~*(5)* "Completeness" means that an application contains information addressing each applicable permit requirement as listed in this part or rules adopted pursuant to this part in sufficient detail for the department to make a decision as to adequacy of the application to meet the requirements of this part.

(6) "Constructor" means the company or companies constructing the built components of a tailings storage facility, including but not limited to embankment dams, surface water diversion structures, tailings distribution systems, reclaim water systems, and monitoring instrumentation.

~~(5)~~*(7)* "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

~~(6)~~*(8)* "Department" means the department of environmental quality provided for in 2-15-3501.

~~(7)~~*(9)* "Disturbed land" means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes

the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.

(10) "Engineer of record" means a qualified engineer who is the lead designer for a tailings storage facility.

(11) "Expansion" means, with regard to tailings storage facilities, a change in the size, height, or configuration of or a contiguous addition to an existing tailings storage facility that increases or may increase the storage capacity of the impoundment above the currently permitted capacity.

~~(8)~~*(12)* "Exploration" means:

(a) all activities that are conducted on or beneath the surface of lands and that result in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and

(b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

(13) "Independent review engineer" means a licensed engineer who is a recognized expert in tailings storage facility design, construction, operation, and closure.

(14) "Material deviation" means a failure to follow a condition in a design document, corrective action plan, schedule, or tailings operation, maintenance, and surveillance manual that could reasonably be expected to substantively impair a tailings storage facility from performing as intended.

(15) "Maximum credible earthquake" means the most severe earthquake that can be expected at a site based on geologic and seismological evidence, including a review of all historic earthquake data of events sufficiently nearby to influence the site, all faults in the area, and attenuations from causative faults to the site.

~~(9)~~*(16)* "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium, that is taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

~~(10)~~*(17)* "Mining" commences when the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of the aggregate of 10,000 short tons.

(18) "Observational method" means a continuous, managed, and integrated process of design, construction control, monitoring, and review enabling appropriate, previously defined modifications to be incorporated during and after construction.

(19) "Operator" means a person who has an operating permit issued under 82-4-335.

~~(11)~~*(20)* "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

(21) "Panel" means the tailings storage facility independent review panel created for each new or expanded tailings storage facility.

~~(12)~~*(22)* "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

~~(13)~~*(23)* "Placer deposit" means:

(a) naturally occurring, scattered, or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial, or alluvial deposits lying above bedrock; or

(b) all forms of deposit except veins of quartz and other rock in place.

~~(14)~~*(24)* "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or persons.

(25) "Practicable" means available and capable of being implemented after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(26) "Professional engineer" means a registered professional engineer licensed to practice in Montana under Title 37, chapter 67, part 3.

(27) "Qualified engineer" means a professional engineer who has a minimum of 10 years of direct experience with the design and construction of tailings storage facilities and has the appropriate professional and educational credentials to effectively determine appropriate parameters for the safe design, construction, operation, and closure of a tailings storage facility.

~~(15)~~*(28)* "Reclamation plan" means the operator's written proposal, as required and approved by the department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical at the time of application for an operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation, which may include use of the land as an industrial site not necessarily related to mining;

(b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed and the proposed method of accomplishment;

(c) the manner and type of revegetation or other surface treatment of disturbed areas;

(d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;

(e) the method of disposal of mining debris;

(f) the method of diverting surface waters around the disturbed areas when necessary to prevent pollution of those waters or unnecessary erosion;

(g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) maps and other supporting documents that may be reasonably required by the department; and

(i) a time schedule for reclamation that meets the requirements of 82-4-336.

~~(16)~~*(29)* "Rock products" means decorative rock, building stone, riprap, mineral aggregates, and other minerals produced by typical quarrying activities or collected from or just below the ground surface.

~~(17)~~*(30)* (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, that,

except as provided in 82-4-310, knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation, that does not hold an operating permit under 82-4-335 except for a permit issued under 82-4-335(3) or a permit that meets the criteria of subsection ~~(17)(c)~~ *(30)(c)* of this section, and that conducts:

(i) an operation that results in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation; and

(B) at least 1 mile apart at their closest point.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:

(i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and

(ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.

(c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.

~~(18)~~*(31)* "Soil materials" means earth material found in the upper soil layers that will support plant growth.

~~(19)~~*(32)* (a) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining.

(b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or other onsite building construction.

(33) "Tailings" means the residual materials remaining after a milling process that separates the valuable fraction from the uneconomic fraction of an ore mined by an operator.

(34) (a) "Tailings storage facility" means a facility that temporarily or permanently stores tailings, including the impoundment, embankment, tailings distribution works, reclaim water works, monitoring devices, storm water diversions, and other ancillary structures.

(b) The term does not include a facility that:

(i) stores 50 acre-feet or less of free water or process solution;

(ii) is wholly contained below surrounding grade with no man-made structures retaining tailings, water, or process solution or underground mines that use tailings as backfill; or

(iii) stores dry stack or filtered tailings.

~~(20)~~*(35)* "Underground mining" means all methods of mining other than surface mining.

~~(21)~~*(36)* "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit. The term includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations that by virtue of mining use are susceptible to erosion in excess of the surrounding undisturbed portions of land.

~~(22)~~*(37)* "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation."

Section 3. Section 82-4-305, MCA, is amended to read:

"82-4-305. Exemption — small miners — written agreement. (1) Except as provided in subsections (3) through (11), the provisions of this part do not apply to a small miner if the small miner annually agrees in writing:

(a) that the small miner will not pollute or contaminate any stream;

(b) that the small miner will provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals;

(c) that the small miner will provide a map locating the miner's mining operations. The map must be of a size and scale determined by the department.

(d) if the small miner's operations are placer or dredge mining, that the small miner shall salvage and protect all soil materials for use in reclamation of that site and shall reclaim all land disturbed by the operations to comparable utility and stability as that of adjacent areas.

(2) For small-miner exemptions obtained after September 30, 1985, a small miner may not obtain or continue an exemption under subsection (1) unless the small miner annually certifies in writing:

(a) if the small miner is an individual, that:

(i) no business association or partnership of which the small miner is a member or partner has a small-miner exemption; and

(ii) no corporation of which the small miner is an officer, director, or owner of record of 25% or more of any class of voting stock has a small-miner exemption; or

(b) if the small miner is a partnership or business association, that:

(i) none of the associates or partners holds a small-miner exemption; and

(ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of voting stock of a corporation that has a small-miner exemption; or

(c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any class of voting stock of the corporation:

(i) holds a small-miner exemption;

(ii) is a member or partner in a business association or partnership that holds a small-miner exemption;

(iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of another corporation that holds a small-miner exemption.

(3) A small miner whose operations are placer or dredge mining shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land, although the bond may not exceed $10,000 for each operation. If the small miner has posted a bond for reclamation with another government agency, the small miner is exempt from the requirement of this subsection.

(4) If a small miner who conducts a placer or dredge mining operation fails to reclaim the operation, the small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge for services performed by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

(5) If a small miner who conducts a placer or dredge mining operation fails to commence reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation within 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as set forth in subsection (6), before or after it incurs those costs.

(6) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection (5), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department.

(7) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation in which the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of. The acreage disturbed by the operation using cyanide ore-processing reagents or other metal leaching solvents or reagents and covered by the operating permit is excluded from the 5-acre limit specified in ~~82-4-303(17)(a)(i)~~ *82-4-303(30)(a)(i)* and ~~(17)(a)(ii)~~ *(30)(a)(ii)*.

(8) (a) Except for a small miner proposing to conduct a placer or dredge mining operation, a small miner who intends to use an impoundment to store

waste from ore processing shall obtain approval for the design, construction, operation, and reclamation of that impoundment and post a performance bond for that part of the small miner's operation before constructing an impoundment. The small miner shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land. If the small miner has posted a bond for reclamation of that site with a federal government agency, the small miner is exempt from the requirements of this subsection (8)(a).

(b) The department shall conduct a review of the adequacy of the bond posted by a small miner using an impoundment pursuant to this section at least once every 5 years and adjust the bond if necessary to ensure reclamation of the impoundment. The acreage disturbed by the portion of the operation that uses an impoundment to store waste from ore processing is included in the 5-acre limit specified in ~~82-4-303(17)(a)(i)~~ *82-4-303(30)(a)(i)* and ~~(17)(a)(ii)~~ *(30)(a)(ii)* and is subject to the provisions of this subsection (8).

(c) If a small miner under this subsection (8) fails to reclaim the operation, the small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge for services performed by state personnel and for state materials and equipment used. If the small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

(d) If a small miner under this subsection (8) fails to commence reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by the department for good cause shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the department of a different address by letter or in the annual certification form, to the most recent address given to the department. If the small miner fails to commence reclamation within 30 days or to diligently complete reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as set forth in subsection (8)(e), before or after it incurs those costs.

(e) To collect additional reclamation costs, the department shall notify the small miner by certified mail, at the address determined under subsection (8)(d), of the additional reasonable reclamation costs and request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the department may bring an action in district court for payment of the estimated future costs and, if the department has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred by the department.

(f) Except for a small miner who conducts a placer or dredge mining operation, a small miner utilizing an impoundment to store waste from ore processing on or after April 28, 2005, shall obtain approval of the design, construction, operation, and reclamation of that impoundment and post a performance bond within 6 months of April 28, 2005. If the small miner has posted a bond for reclamation of that site with a federal government agency, the small miner is exempt from the requirements of this subsection (8)(f).

(9) The exemption provided in this section does not apply to a person:

(a) whose failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond, unless that person meets the conditions described under 82-4-360;

(b) who has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) who has failed to post a reclamation bond required by this section, unless the department has certified that the area for which the bond should have been posted has been reclaimed by that person or reclaimed by the department and the person has reimbursed the department for the cost of the reclamation; or

(d) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

(10) The exemption provided in this section does not apply to an area:

(a) under permit pursuant to 82-4-335;

(b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department, or any other state or federal agency; or

(c) that has been reclaimed by or has been subject to remediation of contamination or pollution by a public agency, under supervision of a public agency, or using public funds.

(11) A small miner may not use mercury except in a contained facility that prevents the escape of any mercury into the environment."

Section 4. Engineer of record — duties. (1) An operator with an existing tailings storage facility shall provide the department with written designation of an engineer of record, including contact information, within 180 days after [the effective date of this act].

(2) An application for a permit pursuant to 82-4-335 or an amendment that will include a tailings storage facility must include the designation of an engineer of record and contact information.

(3) The engineer of record may not be an employee of an operator or permit applicant. The engineer of record shall:

(a) review designs and other documents pertaining to tailings storage facilities required by this part;

(b) certify and seal designs or other documents pertaining to tailings storage facilities submitted to the department;

(c) complete an annual inspection of the tailings storage facility as required in [section 10];

(d) notify the operator when credible evidence indicates the tailings storage facility is not performing as intended; and

(e) immediately notify the operator and the department when credible evidence indicates that a tailings storage facility presents an imminent threat or a high potential for imminent threat to human health or the environment.

(4) The engineer of record, operator, or permit applicant shall notify the department in writing if there is a change in the engineer of record.

(5) If the operator or permit applicant does not designate an engineer of record or replace an engineer of record within 90 days of receipt of notification that the engineer is no longer the engineer of record, the department shall order suspension of the deposition of tailings until an engineer of record is established pursuant to this section.

Section 5. Tailings storage facility — design document — fee. (1) An operator or a permit applicant proposing to construct a new tailings storage facility, an operator that is constructing a new tailings storage facility, or an operator proposing to expand an existing tailings storage facility shall submit to the department a design document and a $1,500 fee.

(2) The design document must contain:

(a) the certification of the engineer of record;

(b) a detailed description of the proposed facility and site characteristics;

(c) maps, sections, and appurtenances design drawings in both hard copy and electronic format with sufficient detail for an independent review;

(d) the raw data files for models used in developing and evaluating the design;

(e) an evaluation indicating that the proposed tailings storage facility will be designed, operated, monitored, and closed using the most applicable, appropriate, and current technologies and techniques practicable given site-specific conditions and concerns;

(f) a site geotechnical investigation commensurate in detail and scope with the complexity of the site geology and proposed tailings storage facility design. The investigation must include a geological model of site conditions and a rationalization of the site investigation process.

(g) a demonstration through site investigation, laboratory testing, geotechnical analyses, and other appropriate means that the tailings, embankment, and foundation materials controlling slope stability are not susceptible to liquefaction or to significant strain-weakening under the anticipated static or cyclic loading conditions, to the extent that the amount of estimated deformation under the loading conditions would result in loss of containment;

(h) for a new tailings storage facility, design factors of safety against slope instability not less than:

(i) 1.5 for static loading under normal operating conditions, with appropriate use of undrained shear strength analysis for saturated, contractive materials;

(ii) 1.3 for static loading under construction conditions if the independent review panel created pursuant to [section 6] agrees that site-specific conditions justify the reduced factor of safety and that the extent and duration of the reduced factor of safety are acceptable; and

(iii) 1.2 for postearthquake, static loading conditions with appropriate use of undrained analysis and selection of shear strength parameters. Under these conditions, a postearthquake factor of safety less than 1.2 but greater than 1.0 may be accepted if the amount of estimated deformation does not result in loss of containment.

(i) for a new tailings storage facility, an analysis showing that the seismic response of the tailings storage facility does not result in the uncontrolled

release of impounded materials or other undesirable consequences when subject to the ground motion associated with the 1-in-10,000-year event, or the maximum credible earthquake, whichever is larger. Any numeric analysis of the seismic response must be calculated for the normal maximum loading condition with steady-state seepage. The analysis must include, without limitation, consideration of:

(i) anticipated ground motion frequency content;

(ii) fundamental period and dynamic response;

(iii) potential liquefaction;

(iv) loss of material strength;

(v) settlement;

(vi) ground displacement;

(vii) deformation; and

(viii) the potential for secondary failure modes.

(j) if a pseudo-static stability analysis is performed to support the design, a justification for the use of the method with respect to the anticipated response to cyclic loading of the tailings facility structure and constituent materials. The calculations must be accompanied by a description of the assumptions used in deriving the seismic coefficient.

(k) reduced factors of safety or seismic design criteria if the independent review panel agrees that site-specific conditions justify that design to the specified requirements of factors of safety or seismic design criteria in this section is not necessary;

(l) for expansion of an existing tailings storage facility, either an analysis showing the proposed expansion meets the minimum design requirements for a new tailings storage facility under this section or an analysis showing the proposed expansion does not reduce the tailings storage facility's original design factors of safety and seismic event design criteria;

(m) a probabilistic and deterministic seismic evaluation for the area and assessment of peak horizontal ground acceleration;

(n) a dam breach analysis, a failure modes and effects analysis or other appropriate detailed risk assessment, and an observational method plan addressing residual risk;

(o) a description of the chemical and physical properties of the materials and process solutions to be stored in the tailings storage facility;

(p) when appropriate, depending on the chemical and physical properties of the materials, a detailed description of how undesirable constituents contained in the impoundment will be isolated from the environment;

(q) a description of the tailings storage facility capacity over time and the estimated ultimate capacity;

(r) specifications for impoundment construction, including the specifications for the foundation, abutments, embankment, means of containment, and the borrow materials;

(s) a construction management plan that includes, at a minimum, parameters and levels of acceptability to be monitored during construction for quality control and quality assurance purposes. The frequency of sampling, the amount of oversight, the qualifications of the oversight personnel, and the role of the panel during and after construction must be specified and agreed to by the panel.

(t) a list of quantitative performance parameters for construction, operation, and closure of the tailings storage facility. The quantitative performance parameters may be expressed as minimums or maximums for embankment crest width, embankment slopes, beach width, operating pool volume, phreatic surface elevation in the embankment and foundation, pore pressures, or other parameters appropriate for the facility and location.

(u) a list of the assumptions used during the analysis and design of the facility and a description justifying the validity of each assumption;

(v) a description of how the design integrates into a closure plan that facilitates, to the extent possible, dam decommissioning resulting in a maintenance-free closure;

(w) requirements for postclosure monitoring, inspection, and review, including the frequency of engineer of record inspections, independent panel reviews, and retention of an engineer of record;

(x) a description of proposed risk management measures for each facility life-cycle stage, including construction, operation, and closure;

(y) a detailed water balance, evidence of calibration if available, and the raw data used to develop the water balance;

(z) a detailed description of how water, seepage, and process solutions are to be routed or managed during construction, operation, and closure;

(aa) a detailed description of storm water controls, including diversions, storage, freeboard, and how extreme storm events will be managed;

(bb) a design storm event for operation and closure conforming to current engineering best practices for the type of facility proposed that includes:

(i) a rationale for the selection of the design storm event;

(ii) the magnitude of the design storm event;

(iii) the magnitude of runoff generated by the design storm event to and around the impoundment; and

(iv) evidence that the dynamic nature of climatology was considered;

(cc) for a new tailings storage facility, design sufficient to store:

(i) the probable maximum flood event plus maximum operating water or solution volume plus sufficient freeboard for wave action; or

(ii) a flood event design criterion less than the probable maximum flood but greater than the 1-in-500-year, 24-hour event if the panel agrees that site-specific conditions justify that design to the probable maximum flood standard is unnecessary;

(dd) for an expansion of an existing tailings storage facility, either an analysis that the proposed expansion meets the minimum requirements in this section to manage storm or flood events or an analysis that the expansion does not reduce the tailings storage facility's ability to store or otherwise manage the original facility design storm or flood events; and

(ee) any other information, drawings, maps, detailed descriptions, or data to assist the panel in determining if the new or expanded tailings storage facility protects human health and the environment.

(3) The design document must be submitted prior to the issuance of the draft permit pursuant to 82-4-337.

Section 6. Independent review panel — selection — duties. (1) An independent review panel shall review the design document required by [section 5].

(2) The operator or permit applicant shall select three independent review engineers to serve on the panel and shall submit those names to the department. The department may reject any proposed panelists. If the department rejects a proposed panelist, the operator or permit applicant shall continue to select independent review engineers as panelists until three panelists are approved by the department.

(3) An independent review engineer may not be an employee of:

(a) an operator or permit applicant; or

(b) the design consultant, the engineer of record, or the constructor.

(4) The operator or permit applicant shall contract with panel members, process invoices, and pay costs.

(5) A representative of the department and a representative of the operator or permit applicant may participate on the panel, but they are not members of the panel and their participation is nonbinding on the review.

(6) The engineer of record is not a member of the panel but shall participate in the panel review.

(7) The operator or permit applicant shall provide each panel member with a hard copy and an electronic copy of the design document and other information requested by the panel.

(8) The panel shall review the design document, underlying analysis, and assumptions for consistency with this part. The panel shall assess the practicable application of current technology in the proposed design.

(9) The panel shall submit its review and any recommended modifications to the operator or permit applicant and the department. The panel's determination is conclusive. The report must be signed by each panel member.

(10) The engineer of record shall modify the design document to address the recommendations of the panel and shall certify the completed design document. The operator or permit applicant shall submit the final design document to the department pursuant to [section 5].

(11) For an expansion of a tailings storage facility for which the original design document was approved by the department, the operator shall make a reasonable effort to retain the previous panel members. To replace a panel member, the process in subsection (2) must be followed.

Section 7. Quality assurance during construction. (1) An operator constructing a new or expanded tailings storage facility shall:

(a) when indicated by the construction management plan, engage a professional engineer or other oversight specified in the plan to implement the construction management plan specified in the final design document. The professional engineer must be an employee of the engineer of record or an employee of the design firm represented by the engineer of record but may not be an employee of the constructor or the operator.

(b) ensure the collection of all records, including as-built plans and specifications, necessary to demonstrate that the tailings storage facility is constructed as specified in the final design document;

(c) when indicated by the construction management plan, secure a certification from the professional engineer for the records generated by the implementation of the quality assurance monitoring as specified in the final design document; and

(d) submit to the department the records collected during the quality assurance monitoring specified in the approved design document for all tailings

storage facility construction conducted during a calendar year in the annual report required by the facility's operating permit or an independent submittal at the completion of the construction activity.

(2) After an appropriate investigation and consultation with the operator, the department shall, pursuant to 82-4-362, order the suspension of tailings storage facility construction activities if credible evidence is observed, submitted, or otherwise obtained that construction activities are not being conducted as specified in the design document.

Section 8. Tailings operation, maintenance, and surveillance manual. (1) A tailings operation, maintenance, and surveillance manual is required for a tailings storage facility.

(2) For a tailings storage facility that exists on or before [the effective date of this act], the tailings operation, maintenance, and surveillance manual must be developed within 180 days of [the effective date of this act]. For a tailings storage facility proposed after [the effective date of this act], the tailings operation, maintenance, and surveillance manual must be developed prior to issuance of the draft permit pursuant to 82-4-337.

(3) The operator or permit applicant shall develop the manual, which must contain:

(a) an identification of the roles and responsibilities of the agents of the operator of the tailings storage facility. The specific organizational role with ultimate responsibility for the tailings storage facility must be identified as the senior ranking agent of the operator at the site of the tailings storage facility.

(b) an identification of necessary maintenance and frequency of maintenance to safely operate the tailings storage facility;

(c) an identification of training needs and training plans for persons with responsibilities identified in the manual;

(d) an identification of operational aspects employed to facilitate, to the extent possible, a maintenance-free closure;

(e) an identification of all inspections and monitoring and the frequency of inspections and monitoring to ensure that the tailings storage facility is performing as intended;

(f) an identification of monitoring and data collection necessary to maintain and calibrate the tailings storage facility's water balance;

(g) a description of how issues identified by routine inspection or monitoring will be resolved and how the progress toward resolution is tracked;

(h) a listing of quantitative performance parameters for construction, operation, and closure. The quantitative performance parameters may be expressed as minimums or maximums for parameters such as embankment crest width, embankment slopes, beach width, operating pool volume, phreatic surface elevation in the embankment and foundation, pore pressures, or other parameters appropriate for the facility and location.

(i) an emergency preparedness and response plan based on the failure modes and effects analysis or other appropriate risk assessment;

(j) an identification of specific trigger levels or events when the department and the engineer of record are immediately notified. When possible, trigger levels must be sufficiently conservative to allow time for corrective actions to be implemented.

(k) any other information necessary to ensure that the tailings storage facility is operated and maintained, is performing, and can be closed as intended.

(4) The engineer of record shall certify by seal that:

(a) the tailings operation, maintenance, and surveillance manual is consistent with the facility's design;

(b) the inspections and monitoring described in the tailings operation, maintenance, and surveillance manual are reasonably sufficient to ensure the tailings storage facility will perform as intended and will reasonably be expected to detect deviations if they occur; and

(c) the emergency preparedness and response plan describes reasonable measures that can be taken to protect human health and the environment.

(5) The operator shall review the tailings operation, maintenance, and surveillance manual annually to ensure that the manual reflects current conditions. Any revision of the manual during operation or at closure must be certified by the seal of the engineer of record.

Section 9. Periodic review required. (1) At least once every 5 years following department approval of a design document pursuant to [section 5] during mining, or as required in a reclamation plan approved pursuant to 82-4-336, the operator shall assemble a panel in accordance with the panel requirements in [section 6]. A reasonable effort must be made to retain previous panel members.

(2) The panel shall:

(a) inspect the tailings storage facility;

(b) review the tailings operation, maintenance, and surveillance manual and records collected in association with the manual;

(c) interview people with responsibilities identified in the tailings operation, maintenance, and surveillance manual; and

(d) review annual engineer of record inspection reports, corrective action plans, records associated with construction, and any other aspect, plan, record, document, design, model, or report related to the tailings storage facility that the panel needs to review to ensure that the tailings storage facility is constructed, operated, and maintained as designed and is functioning, can be closed as intended, and meets acceptable engineering standards.

(3) The operator shall provide documents and records necessary for the panel to complete a periodic review.

(4) The panel shall prepare a report detailing the scope of review and include any recommendations resulting from the review.

(5) The panel shall immediately notify the department and the operator if there is an imminent threat to human health or the environment.

(6) The final review report must be signed by each panel member and provided to the department and the operator.

(7) The operator shall prepare a corrective action plan and schedule effectively implementing the recommendations included in the panel's report. The operator shall submit the corrective action plan and schedule to the panel within 60 days after receipt of the panel report.

(8) The panel shall review the corrective action plan and schedule to determine whether the corrective action plan and schedule proposed by the operator will effectively implement the recommendations included in the panel's report.

(9) Within 30 days after receipt of approval from the panel, the operator shall submit the corrective action plan with an implementation schedule to the department.

(10) Failure to implement the corrective action plan pursuant to the implementation schedule is subject to the provisions of 82-4-361 and 82-4-362.

Section 10. Annual inspections. (1) The engineer of record shall inspect a tailings storage facility annually during operation or as required during closure pursuant to a reclamation plan under 82-4-336.

(2) (a) The engineer of record shall prepare a report describing the scope of the inspection and actions recommended to ensure the tailings storage facility is properly operated and maintained.

(b) The engineer of record shall submit the report to the operator and the department and immediately notify the department and the operator if the tailings impoundment presents an imminent threat or the potential for an imminent threat to human health or the environment.

(3) (a) If the report contains recommendations, the operator shall prepare a corrective action plan implementing the recommendations of the engineer of record and an implementation schedule.

(b) The operator shall submit the corrective action plan and schedule to the engineer of record.

(c) The corrective actions proposed by the operator must reasonably be expected to effectively address the recommendations contained in the inspection report. The engineer of record shall verify the proposed corrective actions.

(d) The operator shall submit the corrective action plan verified by the engineer of record and the implementation schedule to the department within 120 days following the date of the inspection.

(e) The operator shall implement the corrective action plan pursuant to the implementation schedule.

(4) The department shall conduct inspections, review records, and take other actions necessary to determine if the tailings storage facility is being operated in a manner consistent with the approved design document and the tailings operation, maintenance, and surveillance manual.

(5) Failure to implement the corrective action plan and the implementation schedule or material deviations from the approved design document or the tailings operation, maintenance, and surveillance manual are subject to the provisions of 82-4-361 and 82-4-362.

Section 11. Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit — limitation — fees. (1) A person may not engage in mining, ore processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those activities in the state without first obtaining a final operating permit from the department. Except as provided in subsection (2), a separate final operating permit is required for each complex.

(2) (a) A person who engages in the mining of rock products or a landowner who allows another person to engage in the mining of rock products from the landowner's land may obtain an operating permit for multiple sites if each of the multiple sites does not:

(i) operate within 100 feet of surface water or in ground water or impact any wetland, surface water, or ground water;

(ii) have any water impounding structures other than for storm water control;

(iii) have the potential to produce acid, toxic, or otherwise pollutive solutions;

(iv) adversely impact a member of or the critical habitat of a member of a wildlife species that is listed as threatened or endangered under the Endangered Species Act of 1973; or

(v) impact significant historic or archaeological features.

(b) A landowner who is a permittee and who allows another person to mine on the landowner's land remains responsible for compliance with this part, the rules adopted pursuant to this part, and the permit for all mining activities conducted on sites permitted pursuant to this subsection (2) with the landowner's permission. The performance bond required under this part is and must be conditioned upon compliance with this part, the rules adopted pursuant to this part, and the permit of the landowner and any person who mines with the landowner's consent.

(3) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.

(4) (a) Prior to receiving an operating permit from the department, a person shall pay the basic permit fee of $500. The department may require a person who is applying for a permit pursuant to subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal operating expenses of the department whenever those expenses are reasonably necessary to provide for timely and adequate review of the application, including any environmental review conducted under Title 75, chapter 1, parts 1 and 2. The board may further define these expenses by rule. Whenever the department determines that an additional fee is necessary and the additional fee will exceed $5,000, the department shall notify the applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed expenses. The department shall provide the applicant an opportunity to review the department's estimated expenses. The applicant may indicate which proposed expenses the applicant considers duplicative or excessive, if any.

(b) (i) Subject to subsection (4)(b)(ii), a contractor shall, at the request of the applicant, directly submit invoices of contractor expenses to the applicant.

(ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to this section.

(5) The person shall submit an application on a form provided by the department, which must contain the following information and any other pertinent data required by rule:

(a) the name and address of the operator*, the engineer of record if applicable,* and, if a corporation or other business entity, the name and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and its resident agent for service of process, if required by law;

(b) the minerals expected to be mined;

(c) a proposed reclamation plan;

(d) the expected starting date of operations;

(e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area, and the location of proposed access roads to be built;

(f) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the land within the permit area and the owners of record and any purchasers under contracts for deed of all surface area within one-half mile of any part of the permit area, provided that the department is not required to verify this information;

(g) the names and addresses of the present owners of record and any purchasers under contracts for deed of all minerals in the land within the permit area, provided that the department is not required to verify this information;

(h) the source of the applicant's legal right to mine the mineral on the land affected by the permit, provided that the department is not required to verify this information;

(i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

(j) a plan that will provide, within limits of normal operating procedures of the industry, for completion of the operation;

(k) ground water and surface water hydrologic data gathered from a sufficient number of sources and length of time to characterize the hydrologic regime;

(l) a plan detailing the design, operation, and monitoring of impounding structures, including but not limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and stable~~;~~. *For a tailings storage facility, this requirement is met by submission of a design document pursuant to [section 5], a panel report pursuant to [section 6], and a tailings operation, maintenance, and surveillance manual pursuant to [section 8] prior to issuance of a draft permit.*

(m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable materials and remedial action plans to be used to control and mitigate discharges to surface or ground water;

(n) an evaluation of the expected life of any tailings impoundment or waste area and the potential for expansion of the tailings impoundment or waste site~~;~~ ~~and~~. *For a tailings storage facility, this requirement is met by submission of a design document pursuant to [section 5], a panel report pursuant to [section 6], and a tailings operation, maintenance, and surveillance manual pursuant to [section 8] prior to issuance of a draft permit.*

(o) an assessment of the potential for the postmining use of mine-related facilities for other industrial purposes, including evidence of consultation with the county commission of the county or counties where the mine or mine-related facilities will be located.

(6) Except as provided in subsection (8), the permit provided for in subsection (1) for a large-scale mineral development, as defined in 90-6-302, must be conditioned to provide that activities under the permit may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the department, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining impact board that the permittee is in compliance.

(7) When the department determines that a permittee has become or will become a large-scale mineral developer pursuant to 82-4-339 and 90-6-302 and

provides notice as required under 82-4-339, within 6 months of receiving the notice, the permittee shall provide the department with proof that the permittee has obtained a waiver of the impact plan requirement from the hard-rock mining impact board or that the permittee has filed an impact plan with the hard-rock mining impact board and the appropriate county or counties. If the permittee does not file the required proof or if the hard-rock mining impact board certifies to the department that the permittee has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90, chapter 6, parts 3 and 4, the department shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

(8) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons.

(9) A person may not be issued an operating permit if:

(a) that person's failure, or the failure of any firm or business association of which that person was a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department or the completion of reclamation by the person's surety or by the department, unless that person meets the conditions described in 82-4-360;

(b) that person has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) that person has failed to post a reclamation bond required by 82-4-305; or

(d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

(10) A person may not be issued a permit under this part unless, at the time of submission of a bond, the person provides the current information required in subsection (5)(a) and:

(a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

(ii) presents a certification by the administering agency that the violation is in the process of being corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

(b) if the person is a partnership, corporation, or other business association, provides the certification required by subsection (10)(a)(i) or (10)(a)(ii), as applicable, for any partners, officers, directors, owners of 10% or more of any class of voting stock, and business association members."

Section 12. Section 82-4-336, MCA, is amended to read:

"82-4-336. Reclamation plan and specific reclamation requirements. (1) Taking into account the site-specific conditions and circumstances, including the postmining use of the mine site, disturbed lands must be reclaimed consistent with the requirements and standards set forth in this section.

(2) The reclamation plan must provide that reclamation activities, particularly those relating to control of erosion, to the extent feasible, must be conducted simultaneously with the operation and in any case must be initiated

promptly after completion or abandonment of the operation on those portions of the complex that will not be subject to further disturbance.

(3) In the absence of an order by the department providing a longer period, the plan must provide that reclamation activities must be completed not more than 2 years after completion or abandonment of the operation on that portion of the complex.

(4) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without previously obtaining from the department written approval for the proposed change.

(5) Provision must be made to avoid accumulation of stagnant water in the development area to the extent that it serves as a host or breeding ground for mosquitoes or other disease-bearing or noxious insect life.

(6) All final grading must be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the department for a supervised sanitary fill.

(7) When mining has left an open pit exceeding 2 acres of surface area and the composition of the floor or walls of the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions ("objectionable effluents") on exposure to moisture, the reclamation plan must include provisions that adequately provide for:

(a) insulation of all faces from moisture or water contact by covering the faces with material or fill not susceptible itself to generation of objectionable effluents in order to mitigate the generation of objectionable effluents;

(b) processing of any objectionable effluents in the pit before they are allowed to flow or be pumped out of the pit to reduce toxic or other objectionable ratios to a level considered safe to humans and the environment by the department;

(c) drainage of any objectionable effluents to settling or treatment basins when the objectionable effluents must be reduced to levels considered safe by the department before release from the settling basin; or

(d) absorption or evaporation of objectionable effluents in the open pit itself; and

(e) prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and other devices that may reasonably be required by the department.

(8) Provisions for vegetative cover must be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan. The reestablished vegetative cover must meet county standards for noxious weed control.

(9) (a) With regard to disturbed land other than open pits and rock faces, the reclamation plan must provide for the reclamation of all disturbed land to comparable utility and stability as that of adjacent areas. This standard may not be applied to require the removal of mine-related facilities that are valuable for postmining use. If the reclamation plan provides that mine-related facilities will not be removed or that the disturbed land associated with the facilities will not be reclaimed by the permittee, the following apply:

(i) The postmining use of the mine-related facilities must be approved by the department.

(ii) In the absence of a legitimate postmining use of mine-related facilities upon completion of other approved mine reclamation activities, the permittee

shall comply with the reclamation requirements of this part and the reclamation plan within the time limits established in subsection (3) for mine-related facilities that had previously been identified as valuable for postmining use.

(b) With regard to open pits and rock faces, the reclamation plan must provide sufficient measures for reclamation to a condition:

(i) of stability structurally competent to withstand geologic and climatic conditions without significant failure that would be a threat to public safety and the environment;

(ii) that affords some utility to humans or the environment;

(iii) that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands; and

(iv) that mitigates or prevents undesirable offsite environmental impacts.

(c) The use of backfilling as a reclamation measure is neither required nor prohibited in all cases. A department decision to require any backfill measure must be based on whether and to what extent the backfilling is appropriate under the site-specific circumstances and conditions in order to achieve the standards described in subsection (9)(b).

(10) The reclamation plan must provide sufficient measures to ensure public safety and to prevent the pollution of air or water and the degradation of adjacent lands.

(11) A reclamation plan must be approved by the department if it adequately provides for the accomplishment of the requirements and standards set forth in this section.

(12) The reclamation plan must provide for permanent landscaping and contouring to minimize the amount of precipitation that infiltrates into disturbed areas that are to be graded, covered, or vegetated, including but not limited to tailings impoundments and waste rock dumps. The plan must also provide measures to prevent objectionable postmining ground water discharges.

(13) The reclamation plan must include, if applicable, the requirements for postclosure monitoring of a tailings storage facility agreed to by a panel pursuant to [section 6]."

Section 13. Section 82-4-337, MCA, is amended to read:

"82-4-337. Inspection — issuance of operating permit — modification, amendment, or revision. (1) (a) The department shall review all applications for operating permits for completeness and compliance with the requirements of this part and rules adopted pursuant to this part within 90 days of receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies. The initial notice must note all deficiency issues, and the department may not in a later notice raise an issue pertaining to the initial application that was not raised in the initial notice. The department shall notify the applicant concerning completeness and compliance as soon as possible. An application is considered complete and compliant unless the applicant is notified of deficiencies within the appropriate review period.

(b) The review for completeness and compliance is limited to areas in regard to which the department has statutory authority.

(c) When providing notice of deficiencies, the department shall identify each section in this part or rules adopted pursuant to this part related to the deficiency.

(d) When an application is complete and compliant, the department shall:

(i) declare in writing that the application is complete and compliant;

(ii) detail in writing the substantive requirements of this part and how the application complies with those requirements; ~~and~~

(iii) when an application submitted after [the effective date of this act] includes a tailings storage facility, verify the receipt of the certified design document pursuant to [section 5], the panel report pursuant to [section 6], and the tailings operation, maintenance, and surveillance manual pursuant to [section 8]; and

~~(iii)~~*(iv)* issue a draft permit. The department may, as a condition of issuing the draft permit, require that the applicant obtain other permits required by law but not provided for in this part. However, the department may not withhold issuance of the draft permit in the absence of those permits.

(e) Prior to issuance of a draft permit, the department shall inspect the site. If the site is not accessible because of extended adverse weather conditions, the department shall inspect the site at the first available opportunity and may extend the time period prescribed in subsection (1)(a) by a term agreed to by the applicant.

(f) Issuance of the draft permit as a final permit is the proposed state action subject to review required by Title 75, chapter 1.

(g) If the applicant is not notified that there are deficiencies or inadequacies in the application or that the application is compliant within the time period required by subsection (1)(a), the final operating permit must be issued upon receipt of the bond as required in 82-4-338 and pursuant to the requirements of subsection (1)(h) of this section. The department shall promptly notify the applicant of the form and amount of bond that will be required. After the department notifies the applicant of deficiencies in the application within the time period required by subsection (1)(a), no further action by the department is required until the applicant has responded to the deficiency notification.

(h) Except as provided in subsection (1)(g), a final permit may not be issued until:

(i) sufficient bond has been submitted pursuant to 82-4-338;

(ii) the information and certification have been submitted pursuant to 82-4-335(10);

(iii) the department has found that permit issuance is not prohibited by 82-4-335(9) or 82-4-341(7);

(iv) the review pursuant to Title 75, chapter 1, is completed or 1 year has elapsed after the date the draft permit was issued, whichever is less. The applicant may by written waiver extend this time period.

(v) the department has made a determination that the application and the final permit meet the substantive requirements of this part and the rules adopted pursuant to this part.

(i) If the department decides to hire a third-party contractor to prepare an environmental impact statement on the application, the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant.

(2) (a) After issuance of a draft permit but prior to receiving a final permit, an applicant may propose modifications to the application. If the proposed modifications substantially change the proposed plan of operation or reclamation, the department may terminate the draft permit and review the application as modified pursuant to subsection (1) for completeness and compliance and issuance of a new draft permit.

(b) The department shall consult with the applicant before placing stipulations in a draft or final permit. Permit stipulations in a draft or final permit may, unless the applicant consents, address only compliance issues within the substantive requirements of this part or rules adopted pursuant to this part. For a stipulation imposed without the applicant's consent, the department shall provide to the applicant in writing the reason for the stipulation, a citation to the statute or rule that gives the department the authority to impose the stipulation, and, for a stipulation imposed in the final permit that was not contained in the draft permit, the reason that the stipulation was not contained in the draft permit.

(c) Within 40 days of the completion of the review required by Title 75, chapter 1, or 1 year from the date the draft permit is issued, whichever is less, the department shall issue its bond determination.

(d) When the department prepares an environmental review jointly with a federal agency acting under the National Environmental Policy Act, the applicant may by written waiver extend the 1-year deadline contained in subsection (1)(h)(iv).

(e) Upon submission of the bond and subject to subsection (1)(h), the department shall issue the final permit.

(3) The final operating permit must be granted for the period required to complete the operation and is valid until the operation authorized by the permit is completed or abandoned, unless the permit is suspended or revoked by the department as provided in this part.

(4) The final operating permit must provide that the reclamation plan may be modified by the department, upon proper application of the permittee or after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons:

(a) to modify the requirements so that they will not conflict with existing laws;

(b) when the previously adopted reclamation plan is impossible or impracticable to implement and maintain;

(c) when significant environmental problem situations not permitted under the terms of regulatory permits held by the permittee are revealed by field inspection and the department has the authority to address them under the provisions of this part.

(5) (a) The modification of a final operating permit may be a major or minor permit amendment or a permit revision. A modification of the operating permit, including a modification necessary to comply with the requirements of existing law as interpreted by a court of competent jurisdiction must be processed in accordance with the procedures for an application for a permit amendment or revision that are established pursuant to 82-4-342 and this section.

(b) The modification of an operating permit may not be finalized and an existing bond amount may not be increased until the permit modification procedures and analysis described in subsection (5)(a) are completed."

Section 14. Section 82-4-342, MCA, is amended to read:

"82-4-342. Amendment to operating permits. (1) During the term of an operating permit issued under this part, an operator may apply for a permit revision as described in subsections (5)(g) through (5)(j) or an amendment to the permit. The operator may not apply for an amendment to delete disturbed acreage except following reclamation, as required under 82-4-336, and bond release for the disturbance, as required under 82-4-338.

(2) (a) The board may by rule establish criteria for the classification of amendments as major or minor. The board shall adopt rules establishing requirements for the content of applications for revisions and major and minor amendments and the procedures for processing revisions and minor amendments.

(b) An amendment must be considered minor if:

(i) it is for the purpose of retention of mine-related facilities that are valuable for postmining use;

(ii) evidence is submitted showing that a local government has requested retention of the mine- related facilities for a postmining use; and

(iii) the postmining use of the mine-related facilities meets the requirements provided for in 82-4-336.

(3) Applications for major amendments must be processed pursuant to 82-4-337.

(4) The department shall review an application for a revision or a minor amendment and provide a notice of decision on the adequacy of the application within 30 days. If the department does not respond within 30 days, then the permit is revised or amended in accordance with the application.

(5) The department is not required to prepare an environmental assessment or an environmental impact statement for the following categories of action and permit revisions:

(a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review pursuant to Title 75, chapter 1;

(b) administrative actions, such as routine, clerical, or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions;

(c) repair or maintenance of the permittee's equipment or facilities;

(d) investigation and enforcement actions, such as data collection, inspection of facilities, or enforcement of environmental standards;

(e) ministerial actions, such as actions in which the agency does not exercise discretion, but acts upon a given state of facts in a prescribed manner;

(f) approval of actions that are primarily social or economic in nature and that do not otherwise affect the human environment;

(g) changes in a permit boundary that increase disturbed acres that are insignificant in impact relative to the entire operation, provided that the increase is less than 25 acres or 10% of the permitted area, whichever is less;

(h) changes to an approved reclamation plan if the changes are consistent with this part and rules adopted pursuant to this part;

(i) changes in an approved operating plan for an activity that was previously permitted if the changes will be insignificant relative to the entire operation and the changes are consistent with subsection (5)(g); ~~and~~

(j) changes in a permit for the purpose of retention of mine-related facilities that are valuable for postmining use*; and*

(k) modifications to a tailings storage facility that result in a minor expansion to the facility if:

(i) the proposed modification is certified by the seal of the engineer of record;

(ii) the capacity increase resulting from the expansion is no greater than 15% of the capacity of the existing tailings storage facility; and

(iii) the modification complies with [section 5(2)(l) and (2)(dd)] and is exempt under subsection (5)(g), (5)(h), or (5)(i) of this section."

Section 15. Codification instruction. [Sections 4 through 10] are intended to be codified as an integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part 3, apply to [sections 4 through 10].

Section 16. Applicability. [This act] applies to:

(1) operators producing or milling ore under an existing operating permit on or after [the effective date of this act];

(2) applicants who submit an application for an operating permit after [the effective date of this act]; and

(3) a tailings storage facility constructed after [the effective date of this act].

Approved May 4, 2015

CHAPTER NO. 400

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUMS ENDING JUNE 30, 2015, AND ENDING JUNE 30, 2017; AND PROVIDING EFFECTIVE DATES

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [This act] may be cited as "The General Appropriations Act of 2015".

Section 2. First level expenditures. The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2017 biennium, are adopted as legislative intent.

Section 3. Legislative intent. The legislature intends that the funding contained in this bill for personal services fully funds current salaries of state positions and imposes a 2% vacancy savings.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

Section 5. Appropriation control. An appropriation item designated "Biennial" may be spent in either year of the biennium. An appropriation item designated "Restricted" may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated "One Time Only" or "OTO" may not be included in the present law base for the 2019 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated "Biennial", "Restricted", "One Time Only", or "OTO". The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

Section 6. Program definition. As used in [this act], "program" has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinally numbered with an Arabic numeral.

Section 7. Personal services funding — 2019 biennium. (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2017 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding of first level personal services by fund or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2019 biennium submitted by November 1 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

Section 8. Totals not appropriations. The totals shown in [this act] are for informational purposes only and are not appropriations.

Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2015.

(2) [Section 10] is effective on passage and approval.

Section 10. Appropriations. (1) The following money is appropriated from the general fund, except the appropriations to the department of public health and human services which are from the state special revenue fund, to provide necessary and ordinary expenditures for the fiscal year ending June 30, 2015. The unspent balance of any appropriation must revert to the appropriate fund.

Agency and Program	Amount
Commissioner of Political Practices	$94,000
Office of Public Instruction	
BASE Aid	$7,500,000
Block Grants	$400,000
Department of Administration	
Risk Management and Tort Defense	$6,000,000
Office of Public Defender	
Public Defender	$100,000
Conflict Coordinator Program	$1,600,000
Department of Corrections	
Secure Facilities	$5,500,000
Department of Public Health and Human Services	
Health Resource Division	$4,000,000
Developmental Services Division	$1,000,000

(2) The appropriation to the Developmental Services Division is restricted to the implementation of SB 411.

Section 11. Appropriations. The following money is appropriated for the respective fiscal years:

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
A. GENERAL GOVERNMENT AND TRANSPORTATION											
LEGISLATIVE BRANCH (11040)											
1. Legislative Services Division (20) (Biennial)											
7,486,644	816,390	0	0	0	8,303,034	7,699,946	263,304	0	0	0	7,963,250
a. Employee Pay and State Share											
146,685	0	0	0	0	146,685	443,140	0	0	0	0	443,140
2. Legislative Committees & Activities (21) (Biennial)											
745,628	0	0	0	0	745,628	598,938	0	0	0	0	598,938
~~a. ETIC/EQC Carbon Dioxide Study (Restricted/Biennial/OTO)~~											
~~5,766~~	~~0~~	~~0~~	~~0~~	~~0~~	~~5,766~~	~~3,844~~	~~0~~	~~0~~	~~0~~	~~0~~	~~3,844~~
3. Fiscal Analysis and Review (27) (Biennial)											
1,961,603	0	0	0	0	1,961,603	1,983,594	0	0	0	0	1,983,594
4. Audit & Examination (28) (Biennial)											
2,453,757	1,782,672	0	0	0	4,236,429	2,440,363	1,780,253	0	0	0	4,220,616
Total											
12,800,083	2,599,062	0	0	0	15,399,145	13,169,825	2,043,557	0	0	0	15,213,382
Employee Pay and State Share may be allocated and transferred among agency programs when establishing 2017 biennium operating plans.											
CONSUMER COUNSEL (11120)											
1. Administration Program (01)											
0	1,700,160	0	0	0	1,700,160	0	1,713,994	0	0	0	1,713,994
a. Employee Pay and State Share											
0	6,399	0	0	0	6,399	0	19,290	0	0	0	19,290
Total											
0	1,706,559	0	0	0	1,706,559	0	1,733,284	0	0	0	1,733,284

	Fiscal 2016						Fiscal 2017				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
GOVERNOR'S OFFICE (31010)											
1. Executive Office Program (01)											
2,643,370	0	0	0	0	2,643,370	2,639,118	0	0	0	0	2,639,118
2. Executive Residence Operations (02)											
148,678	0	0	0	0	148,678	149,036	0	0	0	0	149,036
3. Air Transportation Program (03											
327,364	0	0	0	0	327,364	330,146	0	0	0	0	330,146
4. Office of Budget and Program Planning (04)											
1,896,347	0	0	0	0	1,896,347	1,905,384	0	0	0	0	1,905,384
a. Legislative Audit (Restricted/Biennial)											
17,935	0	0	0	0	17,935	0	0	0	0	0	0
b. Personal Services Contingency Base Funding (Restricted)											
2,444,921	1,948,157	1,285,790	43,767	0	5,722,635	2,450,922	1,959,152	1,290,514	43,587	0	5,744,175
c. Employee Pay and State Share											
5,469,796	4,347,194	2,856,913	95,995	0	12,769,898	16,769,056	13,263,238	8,708,832	291,650	0	39,032,776
d. Personal Services Contingency (Restricted/Biennial/OTO)											
1,000,000	600,000	125,000	25,000	0	1,750,000	0	0	0	0	0	0
e. Contingency Base Funding											
3,073,956	3,346,751	1,716,017	0	0	8,136,724	2,969,078	3,875,028	3,818,309	0	0	10,662,415
5. Office of Indian Affairs (05)											
187,649	0	0	0	0	187,649	188,025	0	0	0	0	188,025
6. Centralized Services Division (06)											
407,531	0	0	0	0	407,531	408,523	0	0	0	0	408,523
a. Legislative Audit (Restricted/Biennial)											
39,502	0	0	0	0	39,502	0	0	0	0	0	0
7. Lieutenant Governor's Office (12)											
310,990	0	0	0	0	310,990	310,557	0	0	0	0	310,557

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
8. Citizens' Advocate Office (16)											
125,643	0	0	0	0	125,643	125,329	0	0	0	0	125,329
9. Mental Disabilities Board of Visitors (20)											
457,672	0	0	0	0	457,672	457,877	0	0	0	0	457,877
Total											
18,551,354	10,242,102	5,983,720	164,762	0	34,941,938	28,703,051	19,097,418	13,817,655	335,237	0	61,953,361

Personal Services Contingency Base Funding is to be allocated and transferred at the discretion of the governor in an amount determined by the governor and may be used only by a recipient agency to increase its personal services base. With this funding, no more than a total of 10 FTE statewide may be added to the personal services base in the executive's proposed budget for the biennium beginning July 1, 2017.

Employee Pay and State Share may be allocated and transferred among executive branch agency programs when establishing 2017 biennium operating plans.

Personal Services Contingency may be distributed by the office of budget and program planning when personnel vacancies do not occur, retirement costs exceed agency resources, or other personal services contingencies arise.

Contingency Base Funding is to be allocated and transferred at the discretion of the budget director in an amount determined by the budget director. Contingency Base Funding may not be allocated to the office of public instruction for implementation of a prekindergarten or public preschool program. Contingency Base Funding may be included in the base budget for the executive's proposed budget for the biennium beginning July 1, 2017.

Contingency Base Funding may not be transferred to the department of natural resources and conservation to fund an increase in rent expenses.

SECRETARY OF STATE (32010)

1. Business and Government Services (01)

a. HAVA Interest (Restricted/OTO)											
0	0	105,000	0	0	105,000	0	0	105,000	0	0	105,000
Total											
0	0	105,000	0	0	105,000	0	0	105,000	0	0	105,000

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
COMMISSIONER OF POLITICAL PRACTICES (32020)											
1. Administration (01)											
559,780	0	0	0	0	559,780	562,398	0	0	0	0	562,398
a. Legislative Audit (Restricted/Biennial)											
9,696	0	0	0	0	9,696	0	0	0	0	0	0
~~b. Legal Counsel (Restricted)~~											
~~85,000~~	~~0~~	~~0~~	~~0~~	~~0~~	~~85,000~~	~~85,000~~	~~0~~	~~0~~	~~0~~	~~0~~	~~85,000~~
Total											
654,476	0	0	0	0	654,476	647,398	0	0	0	0	647,398

~~Legal Counsel is restricted to legal services by the department of justice.~~

STATE AUDITOR'S OFFICE (34010)											
1. Central Management (01)											
0	2,163,572	0	0	0	2,163,572	0	2,163,161	0	0	0	2,163,161
a. Legislative Audit (Restricted/Biennial)											
0	8,384	0	0	0	8,384	0	0	0	0	0	0
b. Equipment (OTO)											
0	20,000	0	0	0	20,000	0	20,000	0	0	0	20,000
2. Insurance Program (03)											
0	5,376,137	0	0	0	5,376,137	0	4,950,510	0	0	0	4,950,510
a. Legislative Audit (Restricted/Biennial)											
0	28,944	0	0	0	28,944	0	0	0	0	0	0
b. Rate Review Contracted Services (Restricted)											
0	150,000	0	0	0	150,000	0	150,000	0	0	0	150,000
c. Insure Montana (OTO)											
4,500,000	0	0	0	0	4,500,000	0	0	0	0	0	0

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. Securities (04)											
0	1,060,205	0	0	0	1,060,205	0	1,057,413	0	0	0	1,057,413
a. Legislative Audit (Restricted/Biennial)											
0	5,988	0	0	0	5,988	0	0	0	0	0	0
Total											
4,500,000	8,813,230	0	0	0	13,313,230	0	8,341,084	0	0	0	8,341,084
DEPARTMENT OF REVENUE (58010)											
1. Director's Office (01)											
13,224,827	117,111	0	369,303	0	13,711,241	13,320,260	117,111	0	369,678	0	13,807,049
a. Legislative Audit (Restricted/Biennial)											
173,663	0	1,000	0	0	174,663	0	0	0	0	0	0
b. Fiscal Note Overtime (Restricted/OTO)											
0	0	0	0	0	0	70,000	0	0	0	0	70,000
c. Server Replacements (Restricted/OTO)											
376,855	0	0	0	0	376,855	376,855	0	0	0	0	376,855
2. Liquor Control Division (03)											
0	0	0	2,622,462	0	2,622,462	0	0	0	2,611,508	0	2,611,508
a. Operating Costs Adjustments/Life Cycle (OTO)											
0	0	0	50,301	0	50,301	0	0	0	50,301	0	50,301
b. Liquor Division Overtime (Restricted/Biennial/OTO)											
0	0	0	75,000	0	75,000	0	0	0	75,000	0	75,000
c. Liquor Division Termination Payouts (Restricted/Biennial/OTO)											
0	0	0	30,000	0	30,000	0	0	0	30,000	0	30,000
3. Citizen Services and Resource Management (05)											
8,567,655	208,444	0	38,680	0	8,814,779	8,563,184	208,419	0	40,003	0	8,811,606

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Business and Income Taxes Division (07)											
9,473,831	677,718	272,262	0	0	10,423,811	9,584,841	677,718	272,262	0	0	10,534,821
a. Fund Cigarette Stamps (Biennial)											
25,700	0	0	0	0	25,700	25,700	0	0	0	0	25,700
5. Property Assessment Division (08)											
20,858,646	13,119	0	0	0	20,871,765	20,694,012	14,301	0	0	0	20,708,313
Total											
52,701,177	1,016,392	273,262	3,185,746	0	57,176,577	52,634,852	1,017,549	272,262	3,176,490	0	57,101,153

Liquor Control Division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profits and taxes to appropriate accounts are appropriated from the liquor enterprise fund to the department in the amounts not to exceed $138 million in FY 2016 and $145 million in FY 2017.

DEPARTMENT OF ADMINISTRATION (61010)

1. Director's Office (01)											
473,266	0	12,283	0	0	485,549	473,650	0	12,707	0	0	486,357
a. Legislative Audit (Restricted/Biennial)											
78,286	0	0	0	0	78,286	0	0	0	0	0	0
b. Burial Board Per Diem (Restricted)											
2,000	0	0	0	0	2,000	2,000	0	0	0	0	2,000
c. Labor-Management Training Institute (Restricted/Biennial/OTO)											
75,000	0	0	0	0	75,000	0	0	0	0	0	0
2. Governor-Elect Program (02)											
a. Governor-Elect Program (Restricted/OTO)											
0	0	0	0	0	0	50,000	0	0	0	0	50,000
3. State Financial Services Division (03)											
1,581,655	0	1,427	55,330	0	1,638,412	1,588,348	0	1,427	55,373	0	1,645,148

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Architecture and Engineering Division (04)											
0	2,051,152	0	0	0	2,051,152	0	2,057,160	0	0	0	2,057,160
a. Legislative Audit (Restricted/Biennial)											
0	2,512	0	0	0	2,512	0	0	0	0	0	0
5. General Services Division (06)											
855,604	160,339	0	0	0	1,015,943	856,689	160,021	0	0	0	1,016,710
a. Legislative Audit (Restricted/Biennial)											
0	292	0	0	0	292	0	0	0	0	0	0
b. Original Governor's Mansion (Restricted)											
27,000	0	0	0	0	27,000	27,000	0	0	0	0	27,000
c. Rent for the Common Areas (Restricted/OTO)											
1,627,438	0	0	0	0	1,627,438	1,632,185	0	0	0	0	1,632,185
6. State Information Technology Services Division (07)											
378,152	321,391	13,426	0	0	712,969	377,966	320,733	13,426	0	0	712,125
a. Legislative Audit (Restricted/Biennial)											
0	490	0	0	0	490	0	0	0	0	0	0
b. FirstNet Planning Grant (Restricted/Biennial)											
0	0	1,528,112	0	0	1,528,112	0	0	71,451	0	0	71,451
7. Banking and Financial Institutions Division (14)											
0	4,326,327	0	0	0	4,326,327	0	4,269,191	0	0	0	4,269,191
a. Legislative Audit (Restricted/Biennial)											
0	4,945	0	0	0	4,945	0	0	0	0	0	0
8. Montana State Lottery (15)											
0	0	0	5,371,916	0	5,371,916	0	0	0	5,355,477	0	5,355,477
a. Legislative Audit (Restricted/Biennial)											
0	0	0	113,288	0	113,288	0	0	0	0	0	0
b. Lottery Conversion to New Gaming System (Restricted/OTO)											
0	0	0	200,000	0	200,000	0	0	0	0	0	0

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. Lottery Coronis Terminals (Restricted/OTO)											
0	0	0	336,121	0	336,121	0	0	0	0	0	0
d. New Tickets (Restricted/OTO)											
0	0	0	349,000	0	349,000	0	0	0	354,000	0	354,000
~~9. Health Care & Benefits Division (21)~~											
~~0~~	~~0~~	~~0~~	~~4,530,633~~	~~0~~	~~4,530,633~~	~~0~~	~~0~~	~~0~~	~~4,525,485~~	~~0~~	~~4,525,485~~
10. State Human Resources Division (23)											
1,555,226	0	0	0	0	1,555,226	1,555,935	0	0	0	0	1,555,935
a. Additional Operating Adjustments (OTO)											
149,199	0	0	0	0	149,199	151,247	0	0	0	0	151,247
11. Montana Tax Appeal Board (37)											
650,763	0	0	0	0	650,763	630,988	0	0	0	0	630,988
a. Additional Operating expenses (Biennial/OTO)											
39,540	0	0	0	0	39,540	39,540	0	0	0	0	39,540
Total											
7,493,129	6,867,448	1,555,248	10,956,288	0	26,872,113	7,385,548	6,807,105	99,011	10,290,335	0	24,581,999

Burial Board Per Diem is contingent upon the passage and approval of HB 126.

Rent for the Common Areas is restricted to a transfer to the capitol complex major maintenance account in the state special revenue fund for use in capital projects approved through a long-range building program bill.

DEPARTMENT OF COMMERCE (65010)

1. Business Resources Division (51)											
2,251,218	760,539	4,223,354	0	0	7,235,111	2,257,116	760,490	4,223,238	0	0	7,240,844
a. Legislative Audit (Restricted/Biennial)											
4,343	1,033	4,046	0	0	9,422	0	0	0	0	0	0

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. SBIR/STTR Program (Restricted/Biennial)											
375,000	0	0	0	0	375,000	375,000	0	0	0	0	375,000
c. Indian Country Economic Development (Restricted/OTO)											
800,000	0	0	0	0	800,000	800,000	0	0	0	0	800,000
d. Native Language Preservation (Restricted/OTO)											
750,000	0	0	0	0	750,000	750,000	0	0	0	0	750,000
e. Primary Business Sector Training (Restricted/OTO)											
600,000	0	0	0	0	600,000	600,000	0	0	0	0	600,000
f. Enhance Economic Development in Montana (Restricted/Biennial/OTO)											
137,500	0	0	0	0	137,500	137,500	0	0	0	0	137,500
g. Gap Financing Program (Biennial/OTO)											
0	250,000	0	0	0	250,000	0	250,000	0	0	0	250,000
h. Montana Manufacturing Extension Service (Restricted)											
100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
i. Primary Sector Business Training (Biennial)											
0	1,280,000	0	0	0	1,280,000	0	1,280,000	0	0	0	1,280,000
2. Montana Promotion Division (52)											
0	750,000	0	0	0	750,000	0	750,000	0	0	0	750,000
a. Legislative Audit (Restricted/Biennial)											
0	36,741	0	0	0	36,741	0	0	0	0	0	0
3. Community Development Division (60)											
778,834	1,157,793	12,729,491	0	0	14,666,118	765,017	1,159,293	12,730,560	0	0	14,654,870
a. Legislative Audit (Restricted/Biennial)											
1,203	2,945	5,227	0	0	9,375	0	0	0	0	0	0
~~b. Coal Board Grants (Biennial)~~											
~~0~~	~~1,856,555~~	~~0~~	~~0~~	~~0~~	~~1,856,555~~	~~0~~	~~1,855,349~~	~~0~~	~~0~~	~~0~~	~~1,855,349~~
c. Hard Rock Mining Reserve (Restricted)											
0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
d. Capital Improvement Grants (Restricted/Biennial/OTO)	1,500,000	0	0	0	0	1,500,000	0	0	0	0	0	0
4. Housing Division (74)	0	150,000	1,176,413	0	0	1,326,413	0	150,000	1,176,236	0	0	1,326,236
a. Legislative Audit (Restricted/Biennial)	0	0	0	0	0	0	0	0	0	0	0	0
5. Board of Horse Racing (78)	0	182,153	0	0	0	182,153	0	181,817	0	0	0	181,817
6. Director's Office (81)	0	0	550,000	0	0	550,000	0	0	550,000	0	0	550,000
Total	7,298,098	6,527,759	18,688,531	0	0	32,514,388	5,784,633	6,486,949	18,680,034	0	0	30,951,616

Business Resources Division is appropriated up to an additional $1,450,000 in each fiscal year from the microbusiness development loan account and finance program administrative account provided for in 17-6-407 if there are sufficient funds available in the account. The additional appropriation may be used only to provide additional microbusiness development loans.

Montana Manufacturing Extension Service is restricted to providing for an engineering consultant and related operating costs.

DEPARTMENT OF LABOR AND INDUSTRY (66020)

1. Workforce Services Division (01)	39,417	10,337,778	17,648,440	0	0	28,025,635	52,332	10,361,940	17,698,042	0	0	28,112,314
a. Workforce Development (Restricted/Biennial)	0	1,761,476	0	0	0	1,761,476	0	0	0	0	0	0
2. Unemployment Insurance Division (02)	0	4,371,703	10,900,478	0	0	15,272,181	0	4,354,111	10,936,730	0	0	15,290,841
a. Overtime (Restricted/OTO)	0	13,098	46,902	0	0	60,000	0	13,098	46,902	0	0	60,000

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. Commissioner's Office & Centralized Services Division (03)	236,199	391,516	425,160	0	0	1,052,875	236,779	392,100	426,438	0	0	1,055,317
4. Employment Relations Division (04)	1,425,963	11,511,122	724,387	0	0	13,661,472	1,426,267	11,545,176	732,697	0	0	13,704,140
a. Generally Revise Workers' Compensation (Restricted)	0	51,200	0	0	0	51,200	0	204,800	0	0	0	204,800
5. Business Standards Division (05)	0	17,502,485	28	0	0	17,502,513	0	17,625,286	28	0	0	17,625,314
a. Overtime (Restricted/OTO)	0	49,834	0	0	0	49,834	0	49,834	0	0	0	49,834
b. Contingency for BSD (Restricted/Biennial)	0	500,000	0	0	0	500,000	0	500,000	0	0	0	500,000
c. Legal Cost Adjustment (Restricted/Biennial/OTO)	0	340,500	0	0	0	340,500	0	340,500	0	0	0	340,500
d. Prescription Drug Registry (Restricted)	0	141,000	0	0	0	141,000	0	141,000	0	0	0	141,000
6. Technology Services Division (06)	0	0	0	0	0	0	0	0	0	0	0	0
7. Office of Community Services (07)	149,004	13,040	3,198,519	0	0	3,360,563	150,847	13,040	3,198,160	0	0	3,362,047
8. Workers' Compensation Court (09)	0	711,889	0	0	0	711,889	0	712,708	0	0	0	712,708
Total	1,850,583	47,696,641	32,943,914	0	0	82,491,138	1,866,225	46,253,593	33,038,997	0	0	81,158,815

If SB 405 and SB 418 are not passed and approved, then Workforce Development is void. The amount appropriated in Workforce Development from the employment security account provided for in 39-51-409 is restricted to the purpose of implementing [sections 14 through 17 of SB 405].

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Generally Revise Workers' Compensation is contingent upon the passage and approve of SB 259.											
Prescription Drug Registry is contingent upon the passage and approval of SB 7.											
DEPARTMENT OF MILITARY AFFAIRS (67010)											
1. Director's Office (01)											
711,480	0	361,979	0	0	1,073,459	701,277	0	359,296	0	0	1,060,573
a. Legislative Audit (Restricted/Biennial)											
10,055	0	0	0	0	10,055	0	0	0	0	0	0
2. Challenge Program (02)											
1,031,770	0	3,059,044	0	0	4,090,814	1,030,409	0	3,051,342	0	0	4,081,751
a. Legislative Audit (Restricted/Biennial)											
1,617	0	4,849	0	0	6,466	0	0	0	0	0	0
3. National Guard Scholarship Program (03) (Biennial)											
209,409	0	0	0	0	209,409	209,409	0	0	0	0	209,409
4. Starbase Program (04)											
0	0	297,407	0	0	297,407	0	0	295,573	0	0	295,573
a. Legislative Audit (Restricted/Biennial)											
0	0	1,438	0	0	1,438	0	0	0	0	0	0
5. Army National Guard Program (12)											
1,698,130	420	17,043,116	0	0	18,741,666	1,735,614	420	17,066,874	0	0	18,802,908
a. Legislative Audit (Restricted/Biennial)											
3,068	0	26,378	0	0	29,446	0	0	0	0	0	0
6. Air National Guard Program (13)											
431,794	0	4,489,290	0	0	4,921,084	430,114	0	4,502,191	0	0	4,932,305
a. Legislative Audit (Restricted/Biennial)											
1,026	0	5,437	0	0	6,463	0	0	0	0	0	0

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
7. Disaster & Emergency Services (21)											
1,264,472	60,430	15,940,909	0	0	17,265,811	1,264,617	59,641	15,930,188	0	0	17,254,446
a. Legislative Audit (Restricted/Biennial)											
1,187	0	12,457	0	0	13,644	0	0	0	0	0	0
8. Veterans' Affairs Program (31)											
1,040,315	671,705	0	0	0	1,712,020	1,037,831	669,500	0	0	0	1,707,331
a. Legislative Audit (Restricted/Biennial)											
3,469	840	0	0	0	4,309	0	0	0	0	0	0
b. Funding Switch for Veterans' Affairs (OTO)											
0	50,000	0	0	0	50,000	0	50,000	0	0	0	50,000
Total											
6,407,792	783,395	41,242,304	0	0	48,433,491	6,409,271	779,561	41,205,464	0	0	48,394,296
TOTAL SECTION A											
112,256,692	86,252,588	100,791,979	14,306,796	0	313,608,055	116,600,803	92,560,100	107,218,423	13,802,062	0	330,181,388

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
				B. DEPARTMENT OF HEALTH & HUMAN SERVICES							
ECONOMIC SECURITY SERVICES BRANCH (69020)											
1. Disability Employment & Transitions Division (01)											
5,862,444	947,359	21,789,684	0	0	28,599,487	5,862,903	948,528	21,816,060	0	0	28,627,491
a. Montana Youth Transitions (Restricted)											
90,000	0	0	0	0	90,000	90,000	0	0	0	0	90,000
b. Provider Rate Increase (Restricted)											
87,600	0	177,049	0	0	264,649	176,953	0	357,639	0	0	534,592
2. Human and Community Services Division (02)											
32,356,795	2,553,123	285,757,697	0	0	320,667,615	32,352,407	2,553,242	285,755,761	0	0	320,661,410
a. Child Care STARS to Quality (OTO)											
1,200,000	0	0	0	0	1,200,000	1,200,000	0	0	0	0	1,200,000
b. Offices of Public Assistance (OTO)											
159,303	20,252	251,818	0	0	431,373	158,948	20,207	251,253	0	0	430,408
3. Child & Family Services Division (03)											
38,466,232	1,897,614	29,280,054	0	0	69,643,900	39,851,811	1,897,614	29,543,576	0	0	71,293,001
a. Provider Rate Increase (Restricted)											
276,171	0	108,211	0	0	384,382	559,001	0	216,474	0	0	775,475
b. Safe Child Initiative (Biennial)											
1,000,000	0	675,000	0	0	1,675,000	1,000,000	0	675,000	0	0	1,675,000
4. Child Support Enforcement Division (05)											
3,658,042	401,457	8,750,908	0	0	12,810,407	3,656,445	401,494	8,747,628	0	0	12,805,567
Total											
83,156,587	5,819,805	346,790,421	0	0	435,766,813	84,908,468	5,821,085	347,363,391	0	0	438,092,944

The Disability Employment and Transitions Division is appropriated $775,000 of state special revenue from the Montana Telecommunications Access Program (MTAP) during each year of the 2017 biennium to cover a contingent Federal Communications Commission mandate, which would require states to provide both video and internet protocol relay services for people with severe hearing, mobility, or speech impairments.

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Provider Rate Increase may be used only to raise rates paid to service providers.

If HB 305 is not passed and approved, then the Safe Child Initiative is appropriated an additional $500,000 of general fund in each year of the 2017 biennium.

DIRECTOR'S OFFICE (69040)

1. Director's Office (04)											
2,510,093	610,196	2,458,270	0	0	5,578,559	2,514,053	610,540	2,459,860	0	0	5,584,453
Total											
2,510,093	610,196	2,458,270	0	0	5,578,559	2,514,053	610,540	2,459,860	0	0	5,584,453

OPERATIONS SERVICES BRANCH (69060)

1. Business & Financial Services Division (06)											
3,924,675	866,938	5,593,061	0	0	10,384,674	4,144,696	539,626	5,995,448	0	0	10,679,770
a. Legislative Audit (Restricted/Biennial)											
154,66612,892	195,740	0	0	363,298	0	0	0	0	0	0	
2. Quality Assurance Division (08)											
2,609,974	376,007	6,619,586	0	0	9,605,567	2,611,203	375,586	6,622,296	0	0	9,609,085
3. Technology Services Division (09)											
11,312,259	1,629,621	15,801,346	0	0	28,743,226	11,732,206	1,386,761	15,138,197	0	0	28,257,164
4. Management and Fair Hearings Division (16)											
524,853	29,418	729,173	0	0	1,283,444	525,179	29,442	729,607	0	0	1,284,228
Total											
18,526,427	2,914,876	28,938,906	0	0	50,380,209	19,013,284	2,331,415	28,485,548	0	0	49,830,247

The Quality Assurance Division is appropriated funding for the 2017 biennium in an amount not to exceed $108,286 of state special revenue fund share and $199,083 of federal special revenue share from the recovery audit contract to pay recovery audit costs. Payments to the contractor are contingent upon the amount of funds recovered and may not exceed 12.5% of the amount recovered.

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
PUBLIC HEALTH AND SAFETY (69070)											
1. Public Health & Safety Division (07)											
3,857,129	18,075,780	40,155,835	0	0	62,088,744	3,856,743	18,079,732	40,157,193	0	0	62,093,668
Total											
3,857,129	18,075,780	40,155,835	0	0	62,088,744	3,856,743	18,079,732	40,157,193	0	0	62,093,668
MEDICAID AND HEALTH SERVICES BRANCH (69110)											
1. Developmental Services Division (10)											
89,075,706	6,632,891	189,088,052	0	0	284,796,649	92,016,432	6,632,881	197,201,575	0	0	295,850,888
a. Children's Autism Services (Biennial)											
693,000	0	1,307,000	0	0	2,000,000	693,000	0	1,307,000	0	0	2,000,000
b. Additional Waiver Slots (Restricted)											
744,975	0	1,405,025	0	0	2,150,000	1,505,430	0	2,794,570	0	0	4,300,000
c. Provider Rate Increase (Restricted)											
1,584,131	0	3,650,836	0	0	5,234,967	3,230,652	0	7,516,224	0	0	10,746,876
d. Suicide Prevention Grants (OTO)											
125,000	0	0	0	0	125,000	125,000	0	0	0	0	125,000
2. Health Resources Division (11)											
143,806,096	74,660,826	518,442,756	0	0	736,909,678	151,293,936	77,157,755	562,640,294	0	0	791,091,985
a. Provider Rate Increase (Restricted)											
1,692,521	119,254	3,630,219	0	0	5,441,994	2,373,343	278,123	5,234,968	0	0	7,886,434
3. Medicaid and Health Services Management (12)											
2,095,866	150,856	16,120,085	0	0	18,366,807	2,337,938	150,863	16,337,331	0	0	18,826,132
4. Senior & Long-Term Care Division (22)											
73,241,366	29,136,418	186,753,365	0	0	289,131,149	74,320,013	28,656,943	188,674,857	0	0	291,651,813
a. Community Services (Restricted)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. County Nursing Home Intergovernmental Transfer (Restricted)	0	6,737,566	12,269,091	0	0	19,006,657	0	7,245,680	12,905,020	0	0	20,150,700
c. Provider Rate Increase (Restricted)	1,944,442	0	3,438,531	0	0	5,382,973	3,962,106	0	6,911,502	0	0	10,873,608
d. Direct Care Worker Wage Increase (Restricted)	763,612	0	1,436,997	0	0	2,200,609	1,546,595	0	2,910,452	0	0	4,457,047
5. Addictive & Mental Disorders Division (33)	73,597,072	15,203,231	60,321,839	0	0	149,122,142	64,072,240	15,674,146	61,421,274	0	0	141,167,660
a. Existing Jail Diversion Program Grants (Restricted)	250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
b. Community Mental Health Crisis Jail Diversion (Restricted)	1,232,092	617,098	0	0	0	1,849,190	1,232,092	617,098	0	0	0	1,849,190
c. Mental Health Community-Based Medicaid Waiver (Restricted)	344,407	0	648,693	0	0	993,100	695,369	0	1,290,831	0	0	1,986,200
d. Transitional Mental Health Group Home (Restricted/Biennial)	1,500,000	0	238,761	0	0	1,738,761	1,500,000	0	237,555	0	0	1,737,555
e. Community Secure Psychiatric Treatment Beds (Restricted)	815,000	0	0	0	0	815,000	815,000	0	0	0	0	815,000
f. Suicide Mortality Review Team (OTO)	67,000	0	0	0	0	67,000	0	0	0	0	0	0
g. Community Mental Health Services (Restricted)	800,000	0	0	0	0	800,000	800,000	0	0	0	0	800,000
h. Provider Rate Increase (Restricted)	599,594	15,141	931,088	0	0	1,545,823	1,231,028	31,254	1,885,872	0	0	3,148,154
i. Short-Term Inpatient Treatment (Restricted)	500,000	0	0	0	0	500,000	500,000	0	0	0	0	500,000
j. First Step - State Facility Services (Restricted)	0	0	0	0	0	0	4,000,000	0	0	0	0	4,000,000

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
395,721,880	133,273,281	999,682,338	0	0	1,528,677,499	408,750,174	136,444,743	1,069,269,325	0	0	1,614,464,242

Additional Waiver Slots may be used only to fund additional service slots for the comprehensive 0208 waiver above 2,750 service slots in FY 2016 and above 2,750 service slots in FY 2017 administered by the Developmental Services Division.

Provider Rate Increase may be used only to raise rates paid to service providers.

If SB 411 is passed and approved, the Developmental Services Division will be reduced by $2,792,472 in general fund in FY 2017.

If SB 411 is passed and approved the appropriation for the Disability Services Division may be used to fund additional community-based facilities and services to accommodate individuals who are at or would otherwise be placed at the Montana developmental center.

County Nursing Home Intergovernmental Transfer may be used only to make one-time payments to nursing homes based on the number of medicaid services provided. State special revenue in County Nursing Home Intergovernmental Transfer may be expended only after the office of budget and program planning has certified that the department has collected the amount that is necessary to make one-time payments to nursing homes based on the number of medicaid services provided and to fund the base budget in the nursing facility program and the community services program at the level of $564,785 each year from counties participating in the intergovernmental transfer program for nursing facilities.

Community Services may be used only for nonmedicaid services provided to elderly and disabled persons.

Direct Care Worker Wage Increase may be used only for a rate increase for direct care worker wages and ancillary worker wages and related benefits or to provide lump-sum payments to workers. Funds may be used only for payments for workers who provide direct care and ancillary services in the nursing facility, personal assistance, community first choice, and elderly and physically disabled home and community-based services waiver programs.

Addictive and Mental Disorders Division includes a general fund reduction of $10,828,414 in FY 2017. This reduction may be reallocated among divisions when establishing the 2017 biennium operating plan.

Existing Jail Diversion Program Grants may be used only to support increased costs for jail diversion and crisis intervention services established pursuant to 53-21-1203, existing on or before January 1, 2015.

Community Mental Health Crisis Jail Diversion may be used only for community mental health crisis jail diversion grants pursuant to 53-21-1203(2).

Community Secure Psychiatric Treatment Beds may be used only to contract for psychiatric emergency detention beds pursuant to 53-21-1204.

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Mental Health Community-Based Medicaid Waiver may be used only to expand service slots for the home an community-based waiver above the level of 198 slots funded in the FY 2015 legislative appropriations.

Community Mental Health Services may only be used as follows: (1) 72-hour crisis intervention, $500,000 in each year of the biennium; and (2) housing reentry $300,000 in general fund each year of the biennium.

Short-Term Inpatient Treatment may be used only to pay for mental health inpatient treatment that is provided pursuant to 53-21-1205.

The department of public health and human services is appropriated $2,179,275 of general fund and $4,104,677 of federal special revenue for FY 2016 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $290,632,967 by no more than $2,179,275. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2016.

The department of public health and human services is appropriated $4,358,549 of general fund and $8,209,355 of federal special revenue for FY 2016 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $290,632,967 by more than $2,179,275 but no more than $4,358,549. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2016.

The department of public health and human services is appropriated $6,537,824 of general fund and $12,314,032 of federal special revenue for FY 2016 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $290,632,967 by more than $4,358,549 but no more than $6,537,824. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2016.

The department of public health and human services is appropriated $8,717,098 of general fund and $16,418,709 of federal special revenue for FY 2016 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $290,632,967 by more than $6,537,824. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2016.

The department of public health and human services is appropriated $2,932,580 of general fund and $5,443,828 of federal special revenue for FY 2017 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $305,216,366 by no more than $2,932,580. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2017.

The department of public health and human services is appropriated $5,865,159 of general fund and $10,887,656 of federal special revenue for FY 2017 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $305,216,366 by more than $5,865,159 but no more than $8,209,355. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2017.

The department of public health and human services is appropriated $8,797,739 of general fund and $16,331,484 of federal special revenue for FY 2017 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $305,216,366 by more than $5,865,159 but no more than $8,797,739. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2017.

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

The department of public health and human services is appropriated $11,730,318 of general fund and $21,775,312 of federal special revenue for FY 2017 if nonrestricted general fund medicaid benefit expenditures, including accruals, exceed $305,216,366 by more than $8,797,739. The appropriation may be used only to pay medicaid benefit expenditures incurred in FY 2017.

The appropriations provided for in the preceding paragraphs are based on the amount of general fund medicaid benefit expenditures for fiscal years 2016 and 2017. The amounts of $295,652,291 for FY 2016 and $312,172,729 for FY 2017 are superseded by the total of nonrestricted general fund appropriations for each separate fiscal year as reflected in House Bill No. 2 as passed and approved.

The department of public health and human services is appropriated $405,057 of general fund and $5,406,374 of federal special revenue for FY 2016 if medical services funded from the federal children's health insurance program grant, including accruals and state matching funds, exceed $97,141,601. The appropriation may be used only to pay for medical services funded from the federal children's health insurance program for expenditures made in FY 2016.

The department of public health and human services is appropriated $611,659 of general fund and $10,774,192 of federal special revenue for FY 2017 if medical services funded from the federal children's health insurance program grant, including accruals and state matching funds, exceed $107,986,476. The appropriation may be used only to pay for medical services funded from the federal children's health insurance program for expenditures made in FY 2017.

TOTAL SECTION B											
503,772,116	160,693,938	1,418,025,770	0	0	2,082,491,824	519,042,722	163,287,515	1,487,735,317	0	0	2,170,065,554

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
C. NATURAL RESOURCES & COMMERCE												
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (52010)												
1. Fisheries Division (03)	0	7,494,003	9,477,946	0	0	16,971,949	0	7,530,738	9,477,539	0	0	17,008,277
a. Aquatic Invasive Species (OTO)	974,000	0	0	0	0	974,000	974,000	0	0	0	0	974,000
2. Law Enforcement Division (04)	0	9,954,560	587,853	0	0	10,542,413	0	9,958,369	587,421	0	0	10,545,790
a. Operating Adjustment (OTO)	0	95,472	0	0	0	95,472	0	95,472	0	0	0	95,472
3. Wildlife Division (05)	0	6,247,291	7,026,532	0	0	13,273,823	0	6,253,234	7,026,360	0	0	13,279,594
a. Forest Management FTE and Operations (Restricted/OTO)	0	121,377	0	0	0	121,377	0	121,196	0	0	0	121,196
b. Hunting Access Program Administration (Restricted/OTO)	0	784,637	234,535	0	0	1,019,172	0	784,637	234,535	0	0	1,019,172
c. Hunting Access Program Landowner Contracts (Restricted)	0	4,446,274	1,329,030	0	0	5,775,304	0	4,446,274	1,329,090	0	0	5,775,364
4. Parks Division (06)	0	8,086,967	178,582	0	0	8,265,549	0	8,089,753	178,582	0	0	8,268,335
a. Snowmobile Equipment (Restricted/Biennial)	0	210,000	0	0	0	210,000	0	210,000	0	0	0	210,000
5. Communication and Education Division (08)	0	2,491,577	752,859	0	0	3,244,436	0	2,493,051	752,825	0	0	3,245,876
a. Shooting Range Grants	0	350,000	0	0	0	350,000	0	350,000	0	0	0	350,000

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
6. Administration Division(09)											
013,105,983	260,299	0	0	13,366,282	0	13,174,779	229,345	0	0	13,404,124	
a. Legislative Audit (Restricted/Biennial)											
0	85,467	15,082	0	0	100,549	0	0	0	0	0	0
7. Department Management (12)											
0	7,089,014	90,435	0	0	7,179,449	0	7,090,618	90,381	0	0	7,180,999
Total											
974,000	60,562,622	19,953,153	0	0	81,489,775	974,000	60,598,121	19,906,078	0	0	81,478,199

Hunting Access Program Landowner Contracts may be used either for hunter access program payments to landowners or field services provided to manage hunting on block management areas. The department will report on Hunting Access Program Landowner Contracts to the environmental quality council in terms of acres, costs, and services provided to manage hunting on block management areas 90 days after big game hunting season ends.

DEPARTMENT OF ENVIRONMENTAL QUALITY (53010)

1. Central Management Program (10)											
280,926	1,203,941	366,645	0	0	1,851,512	281,707	1,213,709	368,763	0	0	1,864,179
2. Planning, Prevention, and Assistance Division (20)											
2,765,194	3,423,857	6,297,603	0	0	12,486,654	2,768,112	3,428,116	6,302,085	0	0	12,498,313
3. Enforcement Division (30)											
561,008	489,458	379,252	0	0	1,429,718	562,884	491,119	380,555	0	0	1,434,558
4. Remediation Division (40)											
0	5,877,050	9,899,023	0	0	15,776,073	0	5,894,542	9,903,416	0	0	15,797,958
5. Permitting and Compliance Division (50)											
1,688,564	20,391,134	6,395,445	0	0	28,475,143	1,677,545	20,475,573	6,373,740	0	0	28,526,858
a. Orphan Share Expanded Usage (Restricted/Biennial/OTO)											
0	3,500,000	0	0	0	3,500,000	0	3,500,000	0	0	0	3,500,000
b. Hard Rock Reclamation/MFSA Projects (Restricted/Biennial)											
0	812,946	0	0	0	812,946	0	812,946	0	0	0	812,946

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. Zortman/Landusky Additional (Restricted/OTO)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
d. Hazardous Waste/CERCLA Fees											
0	40,000	0	0	0	40,000	0	40,000	0	0	0	40,000
6. Petroleum Tank Release Compensation Board (90)											
0	636,335	0	0	0	636,335	0	636,822	0	0	0	636,822
Total											
5,545,692	36,374,721	23,337,968	0	0	65,258,381	5,540,248	36,492,827	23,328,559	0	0	65,361,634

The Planning, Prevention, and Assistance Division is authorized to decrease federal special revenue and increase state special revenue in the drinking water and/or water pollution control revolving loan programs by a like amount within the administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.

If federal funds are received to help meet the annual shortfall in operating and maintenance costs at the Zortman-Landusky mine sites, this general fund spending authority will be reduced by the same amount.

If SB 136 is not passed and approved, then Hazardous Waste/CERCLA Fees is void.

The department is appropriated up to $1,000,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2017 biennium for the purpose of paying contract expenses related to the recovery of funds.

DEPARTMENT OF TRANSPORTATION (54010)

1. General Operations Program (01)											
0	29,656,359	902,764	0	0	30,559,123	0	29,912,739	920,802	0	0	30,833,541
a. Legislative Audit (Restricted/Biennial)											
0	175,960	0	0	0	175,960	0	0	0	0	0	0
2. Construction Program (02)											
0	75,208,227	372,208,393	0	0	447,416,620	0	76,257,683	378,900,589	0	0	455,158,272
3. Maintenance Program (03)											
0	131,356,263	8,217,753	0	0	139,574,016	0	131,541,889	8,222,528	0	0	139,764,417

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Motor Carrier Services Division (22)											
0	9,095,103	2,831,472	0	0	11,926,575	0	9,095,034	2,832,868	0	0	11,927,902
5. Aeronautics Program (40)											
0	1,885,137	7,091,452	0	0	8,976,589	0	1,863,024	191,402	0	0	2,054,426
a. Aeronautics Charts (OTO)											
0	0	0	0	0	0	0	20,000	0	0	0	20,000
6. Rail, Transit, and Planning Division (50)											
0	7,047,057	25,359,203	0	0	32,406,260	0	7,045,039	25,364,282	0	0	32,409,321
Total											
0	254,424,106	416,611,037	0	0	671,035,143	0	255,735,408	416,432,471	0	0	672,167,879

The department may adjust appropriations between state special revenue and federal special revenue funds if the total state special revenue authority by program is not increased by more than 10% of the total appropriations established by the legislature.

All appropriations in the department are biennial.

All remaining federal pass-through grant appropriations for highway traffic safety, including reversions for the 2015 biennium, are authorized to continue and are appropriated in FY 2016 and FY 2017.

If the department of transportation receives funding of more than $11,187,000 in each year of the 2017 biennium from the federal transit authority for the purposes of transit grants to local governments, then the federal fund appropriations for the rail, transit, and planning program of $25,359,203 in FY 2016 and $25,364,282 in FY 2017 may be increased by a like amount of up to $1.4 million in each year. If the federal funds appropriation in FY 2016 and FY 2017 is increased, the department shall report the amount of the increase to the legislative finance committee.

It is the intent of the legislature that the interoperability radio operations be administered by the department of transportation.

DEPARTMENT OF LIVESTOCK (56030)

1. Centralized Services Program (01)												
95,223	0	0	0	0	95,223	95,027	0	0	0	0	95,027
a. Establish Budget (OTO)											
0	1,804,262	0	0	0	1,804,262	0	1,804,262	0	0	0	1,804,262

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. Legislative Audit (Restricted/Biennial)												
	0	39,051	0	0	0	39,051	0	0	0	0	0	0
2. Diagnostic Laboratory Program (03)												
a. Establish Budget (OTO)												
	896,806	1,192,093	59,579	0	0	2,148,478	874,940	1,199,628	59,433	0	0	2,134,001
3. Animal Health Division (04)												
a. Establish Budget (OTO)												
	763,459	697,376	949,130	0	0	2,409,965	837,418	697,460	948,144	0	0	2,483,022
4. Milk & Egg Program (05)												
	0	52,516	0	0	0	52,516	0	52,812	0	0	0	52,812
a. Establish Budget (OTO)												
	0	592,427	21,341	0	0	613,768	0	543,297	21,341	0	0	564,638
5. Brands Enforcement Division (06)												
a. Establish Budget (OTO)												
	0	3,597,737	0	0	0	3,597,737	0	3,604,623	0	0	0	3,604,623
6. Meat and Poultry Inspection Program (10)												
a. Establish Budget (OTO)												
	825,735	5,718	753,756	0	0	1,585,209	826,805	5,718	736,832	0	0	1,569,355
Total												
	2,581,223	7,981,180	1,783,806	0	0	12,346,209	2,634,190	7,907,800	1,765,750	0	0	12,307,740

During the 2017 biennium, up to $500,000 of state special authority is appropriated if livestock per capita fees are raised and the subsequent funds are available.

The department of livestock shall report on the structural balance on all fee-based funds to the economic affairs interim committee at the first meeting following July 1 of 2015 and 2016.

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (57060)											
1. Centralized Services (21)											
4,051,749	1,985,522	293,198	0	0	6,330,469	4,106,524	1,989,676	289,622	0	0	6,385,822
a. Legislative Audit (Restricted/Biennial)											
122,264	0	0	0	0	122,264	0	0	0	0	0	0
2. Oil and Gas Conservation Division (22)											
0	1,987,232	110,965	0	0	2,098,197	0	1,988,198	111,211	0	0	2,099,409
3. Conservation and Resource Development Division (23)											
1,741,282	6,796,203	294,496	0	0	8,831,981	1,729,316	6,704,605	295,947	0	0	8,729,868
a. Conservation District 223 Program (Biennial)											
0	250,000	0	0	0	250,000	0	250,000	0	0	0	250,000
b. Montana Rural Water (OTO)											
0	240,000	0	0	0	240,000	0	240,000	0	0	0	240,000
c. Drinking Water Loan Forgiveness (Restricted/OTO)											
0	200,000	0	0	0	200,000	0	200,000	0	0	0	200,000
d. Sage Grouse Conservation Fund (Restricted/Biennial/OTO)											
5,000,000	0	0	0	0	5,000,000	5,000,000	0	0	0	0	5,000,000
e. St. Mary Rehabilitation Work Group (Restricted)											
0	150,000	0	0	0	150,000	0	150,000	0	0	0	150,000
f. Conservation District Operation (Biennial)											
50,000	200,000	0	0	0	250,000	50,000	200,000	0	0	0	250,000
g. Jefferson Slough Bypass Channel (Restricted/Biennial/OTO)											
0	1,000,000	0	0	0	1,000,000	0	0	0	0	0	0
4. Water Resources Division (24)											
9,388,318	6,428,465	193,455	0	0	16,010,238	9,390,051	6,283,403	193,181	0	0	15,866,635
a. Water Rights Database (OTO)											
0	70,000	0	0	0	70,000	0	70,000	0	0	0	70,000

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
5. Forestry and Trust Land Management (35)											
12,191,118	17,089,438	1,218,597	0	0	30,499,153	12,258,791	17,052,993	1,216,414	0	0	30,528,198
a. Cabin Site Sales Program (Restricted/OTO)											
0	265,514	0	0	0	265,514	0	266,357	0	0	0	266,357
b. TLMD MSU-Morrill Trust (Restricted/OTO)											
80,000	0	0	0	0	80,000	80,000	0	0	0	0	80,000
c. Forestry in Focus (OTO)											
82,251	0	0	0	0	82,251	68,950	0	0	0	0	68,950
Total											
32,706,982	36,662,374	2,110,711	0	0	71,480,067	32,683,632	35,395,232	2,106,375	0	0	70,185,239

During the 2017 biennium, up to $1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.

During the 2017 biennium, up to $100,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.

During the 2017 biennium, up to $500,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.

The amount appropriated of $590,744 in FY 2016 and $495,736 in FY 2017 for the Conservation and Resources Development Division is restricted for the purpose of sage grouse management.

The department is authorized to decrease federal special revenue in the pollution control and/or drinking water revolving fund loan programs and increase state special revenue by a like amount within administration accounts when the amount of federal EPA CAP grant funds allocated for administration of the grant have been expended or federal funds and bond proceeds will be used for other program purposes as authorized in law providing for the distribution of funds.

During the 2017 biennium, up to $1 million of funds currently in or to be deposited in the Contract Timber Harvest account is appropriated to the department for contract harvesting, a tool to improve forest health and generate revenue for trust beneficiaries.

The department is appropriated up to $600,000 for the 2017 biennium from the loan loss reserve account of the private loan program established in 85-1-603 for the purchase of prior liens on property held as loan security as provided in 85-1-615.

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
DEPARTMENT OF AGRICULTURE (62010)											
1. Central Management Division (15)											
110,002	1,107,801	107,016	128,387	0	1,453,206	110,331	1,110,429	107,490	128,822	0	1,457,072
a. Legislative Audit (Restricted/Biennial)											
44,529	0	0	0	0	44,529	0	0	0	0	0	0
2. Agricultural Sciences Division (30)											
243,083	7,312,767	1,111,858	0	0	8,667,708	244,534	7,323,766	1,115,085	0	0	8,683,385
a. Statewide Noxious Weed Control Coordination (Restricted/OTO)											
0	127,491	0	0	0	127,491	0	127,558	0	0	0	127,558
3. Agricultural Development Division (50)											
573,938	6,182,440	74,903	498,769	0	7,330,050	574,503	6,186,390	74,924	498,916	0	7,334,733
a. Food and Ag Development Centers (Restricted/OTO)											
0	105,000	0	0	0	105,000	0	105,000	0	0	0	105,000
Total											
971,552	14,835,499	1,293,777	627,156	0	17,727,984	929,368	14,853,143	1,297,499	627,738	0	17,707,748

The department shall report on the performance of the Statewide Noxious Weed Control Coordination program to the environmental quality council on a quarterly basis. Statewide Noxious Weed Control Coordination is appropriated from the environment quality protection fund.

The department shall report on the performance of the food and Ag Development centers program to the environmental quality council on a quarterly basis.

TOTAL SECTION C											
42,779,449	410,840,502	465,090,452	627,156	0	919,337,559	42,761,438	410,982,531	464,836,732	627,738	0	919,208,439

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
D. JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE											
JUDICIAL BRANCH (21100)											
1. Supreme Court Operations (01)											
11,437,620	241,929	126,241	0	0	11,805,790	11,442,783	242,003	126,241	0	0	11,811,027
a. Legislative Audit (Restricted/Biennial)											
46,683	0	0	0	0	46,683	0	0	0	0	0	0
b. Information Technology Staff (OTO)											
206,275	0	0	0	0	206,275	205,938	0	0	0	0	205,938
c. Court Help Program (Restricted)											
295,000	0	0	0	0	295,000	295,000	0	0	0	0	295,000
d. Judicial Education (Restricted)											
50,000	0	0	0	0	50,000	50,000	0	0	0	0	50,000
e. Judicial Standards (Restricted/Biennial)											
25,000	0	0	0	0	25,000	0	0	0	0	0	0
f. Drug Court Increased User Fees (Restricted)											
0	25,000	0	0	0	25,000	0	25,000	0	0	0	25,000
g. JDIP Administration - HB 233											
5,068,979	171,718	240	0	0	5,240,937	5,068,622	171,718	240	0	0	5,240,580
h. Employee Pay and State Share											
434,830	26,901	617	0	0	462,348	1,306,944	80,976	1,832	0	0	1,389,752
2. Law Library (03)											
946,651	0	0	0	0	946,651	946,763	0	0	0	0	946,763
3. District Court Operations (04)											
28,255,693	90,597	0	0	0	28,346,290	28,226,316	90,597	0	0	0	28,316,913
a. Court Appointed Special Advocates (Restricted)											
150,000	0	0	0	0	150,000	150,000	0	0	0	0	150,000

	Fiscal 2016						Fiscal 2017				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Water Courts Supervision (05)											
1,092,573	1,208,954	0	0	0	2,301,527	1,098,666	1,209,462	0	0	0	2,308,128
5. Clerk of Court (06)											
522,374	0	0	0	0	522,374	522,377	0	0	0	0	522,377
Total											
48,531,678	1,765,099	127,098	0	0	50,423,875	49,313,409	1,819,756	128,313	0	0	51,261,478

JDIP Administration - HB 233 is contingent on passage and approval of HB 233.

Employee Pay and State Share may be allocated and transferred among agency programs when establishing 2017 biennium operating plans.

CRIME CONTROL DIVISION (41070)

1. Justice System Support Service (01)											
2,465,829	122,049	5,539,808	0	0	8,127,686	2,465,858	122,039	5,539,586	0	0	8,127,483
Total											
2,465,829	122,049	5,539,808	0	0	8,127,686	2,465,858	122,039	5,539,586	0	0	8,127,483

All pass-through grant authority is biennial.

All remaining pass-through grant appropriations , up to $100,000 in general fund money , $180,000 in state special revenue, and $7 million in federal funds, including reversions, for the 2015 biennium are authorized to continue and are appropriated in fiscal year 2016 and fiscal year 2017.

DEPARTMENT OF JUSTICE (41100)

1. Legal Services Division (01)											
6,887,359	1,267,216	730,111	0	0	8,884,686	6,995,799	1,282,913	729,853	0	0	9,008,565
2. Office of Consumer Protection (02)											
0	0	0	0	0	0	0	0	0	0	0	0
3. Gambling Control Division (07)											
0	3,120,915	0	1,226,765	0	4,347,680	0	3,144,581	0	1,233,195	0	4,377,776

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Motor Vehicle Division (12)												
	9,136,438	11,228,694	0	591,259	0	20,956,391	9,174,900	11,340,021	0	591,259	0	21,106,180
a. Driver License Contract Replacement (Restricted)												
	1,114,810	743,207	0	0	0	1,858,017	1,135,491	756,994	0	0	0	1,892,485
5. Montana Highway Patrol (13)												
	0	36,318,393	0	0	0	36,318,393	0	36,492,543	0	0	0	36,492,543
6. Division of Criminal Investigation (18)												
	7,362,361	3,951,112	599,090	0	0	11,912,563	7,434,929	4,078,975	596,936	0	0	12,110,840
a. Montana Developmental Center Investigator (Restricted/OTO)												
	100,101	0	0	0	0	100,101	99,911	0	0	0	0	99,911
7. Public Safety Officers Standards and Training (POST) (19)												
	346,947	0	0	0	0	346,947	348,253	0	0	0	0	348,253
a. POST Legal Support and Travel (Biennial)												
	100,000	0	0	0	0	100,000	0	0	0	0	0	0
8. Central Services Division (28)												
	747,225	1,229,443	2,623	29,696	0	2,008,987	905,781	1,372,072	4,436	30,605	0	2,312,894
a. Legislative Audit (Restricted/Biennial)												
	24,996	54,007	0	0	0	79,003	0	0	0	0	0	0
9. Information Technology Services Division (29)												
	4,416,568	141,461	2,651	14,855	0	4,575,535	4,622,500	141,461	2,651	14,855	0	4,781,467
10. Forensic Science Division (32)												
	4,109,821	367,460	0	0	0	4,477,281	4,126,292	371,440	0	0	0	4,497,732
Total												
	34,346,626	58,421,908	1,334,475	1,862,575	0	95,965,584	34,843,856	58,981,000	1,333,876	1,869,914	0	97,028,646

If HB 628 is not passed and approved, Motor Vehicle Division is increased in state special revenue by $1,697,988 in FY 2016 and $1,703,961 in FY 2017.

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
PUBLIC SERVICE COMMISSION (42010)											
1. Public Service Regulation Program (01)											
0	3,851,021	73,336	0	0	3,924,357	0	3,851,220	73,336	0	0	3,924,556
a. Legislative Audit (Restricted/Biennial)											
0	21,546	0	0	0	21,546	0	0	0	0	0	0
b. Retirement Payouts (Restricted/Biennial/OTO)											
0	100,000	0	0	0	100,000	0	0	0	0	0	0
c. Information Technology (Restricted)											
0	47,662	0	0	0	47,662	0	47,662	0	0	0	47,662
Total											
0	4,020,229	73,336	0	0	4,093,565	0	3,898,882	73,336	0	0	3,972,218
OFFICE OF STATE PUBLIC DEFENDER (61080)											
1. Office of State Public Defender (01) (Biennial)											
a. Legislative Audit (Restricted/Biennial)											
0	0	0	0	0	0	0	0	0	0	0	0
b. Office of State Public Defender (Biennial/OTO)											
25,825,007	273,926	0	0	0	26,098,933	25,845,605	273,926	0	0	0	26,119,531
c. Legislative Audit (Restricted/Biennial/OTO)											
55,661	0	0	0	0	55,661	0	0	0	0	0	0
d. Public Defender Commission Discretionary Funding (OTO)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
2. Office of Appellate Defender (02) (Biennial)											
a. Office of State Public Defender (Biennial/OTO)											
1,615,161	0	0	0	0	1,615,161	1,610,717	0	0	0	0	1,610,717

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. Conflict Coordinator Program (03) (Biennial)											
a. Office of State Public Defender (Biennial/OTO)											
4,897,773	0	0	0	0	4,897,773	4,898,814	0	0	0	0	4,898,814
Total											
32,643,602	273,926	0	0	0	32,917,528	32,605,136	273,926	0	0	0	32,879,062
All appropriations for the Office of State Public Defender are biennial.											
DEPARTMENT OF CORRECTIONS (64010)											
1. Director's Office (01)											
12,699,523	449,213	0	102,775	0	13,251,511	12,829,126	449,779	0	107,229	0	13,386,134
a. Legislative Audit (Restricted/Biennial)											
111,322	0	0	0	0	111,322	0	0	0	0	0	0
b. American Correctional Association Certification (OTO)											
10,100	0	0	0	0	10,100	0	0	0	0	0	0
2. Probation and Parole Division (02)											
66,513,915	814,167	0	0	0	67,328,082	67,331,564	814,167	0	0	0	68,145,731
a. Annualize Contracted Beds (Biennial)											
746,269	0	0	0	0	746,269	720,734	0	0	0	0	720,734
3. Secure Custody Facilities (03) (Biennial)											
75,610,890	104,462	0	0	0	75,715,352	75,692,342	104,462	0	0	0	75,796,804
a. Annualize Contracted Beds (Biennial)											
3,648,061	0	0	0	0	3,648,061	3,878,120	0	0	0	0	3,878,120
b. Shelby Prison Prevailing Wage Increases (Biennial)											
386,200	0	0	0	0	386,200	386,200	0	0	0	0	386,200
c. Shelby Prison Provider Rate Increase (Biennial)											
250,174	0	0	0	0	250,174	498,981	0	0	0	0	498,981

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
d. Correctional Officer Pay Adjustment (Restricted)	1,075,834	0	0	0	0	1,075,834	1,071,727	0	0	0	0	1,071,727
e. Lewistown Infirmary Security (OTO)	273,761	0	0	0	0	273,761	273,100	0	0	0	0	273,100
4. Montana Correctional Enterprises (04)	887,428	2,645,614	0	0	0	3,533,042	886,016	2,646,008	0	0	0	3,532,024
5. Youth Services (05)	13,328,951	599,062	0	0	0	13,928,013	13,332,763	599,062	0	0	0	13,931,825
a. Correctional Officer Pay Adjustment (Restricted)	336,021	0	0	0	0	336,021	334,739	0	0	0	0	334,739
6. Clinical Services Division (06)	11,265,994	0	0	0	0	11,265,994	11,270,371	0	0	0	0	11,270,371
a. Medical Copayment Program (Restricted)	0	208,900	0	0	0	208,900	0	208,900	0	0	0	208,900
b. Women's Prison Infirmary FTE (OTO)	274,977	0	0	0	0	274,977	274,255	0	0	0	0	274,255
c. Infirmary Medical Equipment (OTO)	15,000	0	0	0	0	15,000	25,000	0	0	0	0	25,000
d. Outside Medical (Restricted/Biennial)	9,328,395	0	0	0	0	9,328,395	9,328,395	0	0	0	0	9,328,395
Total	196,762,815	4,821,418	0	102,775	0	201,687,008	198,133,433	4,822,378	0	107,229	0	203,063,040

All appropriations for Probation & Parole Division and Secure Custody Facilities not otherwise identified in a separate appropriation item are biennial.

Secure Custody Facilities includes funding to hold inmates in county jails. It is the intent of the legislature that the department of corrections may pay no more than $69 per day to hold an inmate in any county jail. If the department of corrections certifies to the budget director that it cannot obtain the number of beds required to house inmates in county jails at the $69 rate and the budget director verifies the certification, Secure Custody Facilities is increased by $174,820 general

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

fund each year of the 2017 biennium. It is the intent of the legislature that once the budget director verifies the certification, the department of corrections may pay no more than $72.50 per day to hold an inmate in any county jail.

Probation and Parole Division includes funding for payment of contracted treatment and prerelease beds. It is the intent of the legislature that, within existing funding and at the contracted rate, the department of corrections may pay for beds filled at up to 110% of the contracted bed levels for treatment and prerelease beds.

If HB 233 is not passed and approved, Youth Services is increased in general fund money by $5,068,979 in FY 2016 and by $5,068,622 in FY 2017, in state special revenue by $171,718 in FY 2016 and by $171,718 in FY 2017, and in federal special revenue by $240 in FY 2016 and by $240 in FY 2017.

TOTAL SECTION D											
314,750,550	69,424,629	7,074,717	1,965,350	0	393,215,246	317,361,692	69,917,981	7,075,111	1,977,143	0	396,331,927

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
				E. EDUCATION							
OFFICE OF PUBLIC INSTRUCTION (35010)											
1. State Level Activities (06)											
10,898,175	251,479	18,369,111	0	0	29,518,765	10,893,741	251,284	18,571,066	0	0	29,716,091
a. Montana Digital Academy (Restricted/Biennial/OTO)											
832,500	0	0	0	0	832,500	832,500	0	0	0	0	832,500
b. Audiological Services (Restricted/Biennial/OTO)											
86,907	0	0	0	0	86,907	101,308	0	0	0	0	101,308
2. Local Education Activities (09)											
0	817,125	149,093,391	0	0	149,910,516	0	817,125	150,235,391	0	0	151,052,516
a. Advancing Agricultural Education (Restricted/Biennial)											
127,393	0	0	0	0	127,393	127,395	0	0	0	0	127,395
b. In-State Treatment (Restricted/Biennial)											
787,800	0	0	0	0	787,800	787,800	0	0	0	0	787,800
c. Secondary Vo-ed (Restricted/Biennial)											
1,500,000	0	0	0	0	1,500,000	1,500,000	0	0	0	0	1,500,000
d. Adult Basic Education (Restricted/Biennial)											
525,000	0	0	0	0	525,000	525,000	0	0	0	0	525,000
e. Gifted and Talented (Restricted/Biennial)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
f. K-12 BASE Aid (Restricted/Biennial)											
636,438,555	0	0	0	0	636,438,555	651,840,376	0	0	0	0	651,840,376
g. At-Risk Student Payment (Restricted/Biennial)											
5,269,408	0	0	0	0	5,269,408	5,363,730	0	0	0	0	5,363,730
h. Reimbursement Block Grants (Restricted/Biennial)											
68,751,683	0	0	0	0	68,751,683	68,768,640	0	0	0	0	68,768,640

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
i. Transportation (Restricted/Biennial)											
12,166,526	0	0	0	0	12,166,526	12,266,826	0	0	0	0	12,266,826
j. State Tuition Payments (Restricted/Biennial)											
577,675	0	0	0	0	577,675	577,675	0	0	0	0	577,675
k. Special Education (Restricted/Biennial)											
42,891,966	0	0	0	0	42,891,966	42,891,966	0	0	0	0	42,891,966
l. School Facility Reimbursement (Restricted)											
0	8,586,000	0	0	0	8,586,000	0	8,586,000	0	0	0	8,586,000
m. School Food (Restricted/Biennial)											
663,861	0	0	0	0	663,861	663,861	0	0	0	0	663,861
Total											
781,767,449	9,654,604	167,462,502	0	0	958,884,555	797,390,818	9,654,409	168,806,457	0	0	975,851,684

All revenue up to $1.1 million in the state traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter 7, part 5.

All appropriations for federal special revenue appropriations in State Level Activities and in Local Education Activities and all general fund appropriations in Local Education Activities are biennial.

For each year of the 2017 biennium, there is an $832,500 general fund, one-time-only, restricted appropriation available to the Montana Digital Academy over and above the $1,168,000 base appropriation. The first $1,900,000 may be requested by the digital academy from the office of public instruction on as-needed basis. To receive the remaining $100,500, the digital academy must show proof of at least 6,000 enrollments by March 1 of the fiscal year for the preceding summer session and the fall and spring semesters.

All general and state funds appropriated to local school districts through Local Education Activities for FY 2016 and FY 2017 are restricted for the intended purpose. This includes funding for the follow: K-12 BASE Aid, At-Risk Student Payment, Special Education, Gifted and Talented, In-State Treatment, Secondary Vo-ed, Adult Basic Education, Transportation, School Facility Reimbursement, School Food, Reimbursement Block Grants, State Tuition Payments, Advancing Agricultural Education.

~~$6.0 million is appropriated from the state school oil and natural gas distribution account for the purposes specified in 20-9-520.~~

The Office of Public Instruction K-12 BASE Aid appropriation is reduced by $1,060,351 in FY 2016 and $1,205,462 in FY 2017 if SB 157 is passed and approved.

	Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
BOARD OF PUBLIC EDUCATION (51010)											
1. K-12 Education (01)											
139,855	178,078	0	0	0	317,933	138,521	179,207	0	0	0	317,728
a. Legislative Audit (Restricted/Biennial)											
14,364	0	0	0	0	14,364	0	0	0	0	0	0
b. Legal Expenses (Restricted/OTO)											
30,000	0	0	0	0	30,000	30,000	0	0	0	0	30,000
Total											
184,219	178,078	0	0	0	362,297	168,521	179,207	0	0	0	347,728
COMMISSIONER OF HIGHER EDUCATION (51020)											
1. Administration Program (01)											
3,250,100	0	0	541,420	0	3,791,520	3,249,736	0	0	541,565	0	3,791,301
a. Legislative Audit (Restricted/Biennial)											
43,092	0	0	0	0	43,092	0	0	0	0	0	0
b. Research Initiative (Restricted/Biennial/OTO)											
7,500,000	0	0	0	0	7,500,000	7,500,000	0	0	0	0	7,500,000
c. Employee Pay and State Share											
3,729,621	566	36,451	0	0	3,766,638	8,699,326	3,816	253,292	0	0	8,956,434
2. Student Assistance Program (02)											
8,426,881	234,345	0	0	0	8,661,226	8,788,314	234,141	0	0	0	9,022,455
a. Governor's Best and Brightest Scholarship (OTO)											
1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000
b. Quality Educator Loan Forgiveness Program (OTO)											
494,890	0	0	0	0	494,890	494,890	0	0	0	0	494,890
c. Veterinary Medicine											
321,290	0	0	0	0	321,290	655,440	0	0	0	0	655,440

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. Improving Teacher Quality (03)											
0	0	517,390	0	0	517,390	0	0	517,390	0	0	517,390
4. Community College Assistance (04)											
13,021,828	0	0	0	0	13,021,828	13,021,828	0	0	0	0	13,021,828
a. Legislative Audit (Restricted/Biennial)											
82,500	0	0	0	0	82,500	0	0	0	0	0	0
5. Educational Outreach and Diversity (06)											
103,937	0	5,122,496	0	0	5,226,433	103,656	0	5,119,661	0	0	5,223,317
6. Workforce Development Program (08)											
90,067	0	5,505,788	0	0	5,595,855	90,067	0	5,505,743	0	0	5,595,810
7. Appropriation Distribution Transfers (09)											
167,318,199	19,560,630	0	0	0	186,878,829	167,322,025	19,560,955	0	0	0	186,882,980
a. Legislative Audit (Restricted/Biennial)											
545,836	0	0	0	0	545,836	0	0	0	0	0	0
b. Classroom and Technology Collaboration (OTO)											
1,600,000	0	0	0	0	1,600,000	0	0	0	0	0	0
8. Research and Development Agencies (10)											
a. Bureau of Mines and Geology											
3,813,092	915,731	0	0	0	4,728,823	3,813,021	914,968	0	0	0	4,727,989
b. Fire Services Training School											
734,202	0	0	0	0	734,202	733,194	0	0	0	0	733,194
c. AES Seed Lab MSU-Bozeman (Biennial/OTO)											
125,000	0	0	0	0	125,000	125,000	0	0	0	0	125,000
d. Coal and Mine Data Records (Restricted/OTO)											
0	300,000	0	0	0	300,000	0	300,000	0	0	0	300,000
e. Agricultural Experiment Station											
14,897,522	0	0	0	0	14,897,522	14,883,995	0	0	0	0	14,883,995

	Fiscal 2016						Fiscal 2017				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
f. Extension Services											
5,977,225	0	0	0	0	5,977,225	5,976,600	0	0	0	0	5,976,600
g. Forest & Conservation Experiment Station											
1,274,520	0	0	0	0	1,274,520	1,274,931	0	0	0	0	1,274,931
h. AES Wool Lab MSU-Bozeman (Restricted/Biennial/OTO)											
60,000	0	0	0	0	60,000	60,000	0	0	0	0	60,000
i. Extension Service - Local Government Center											
180,000	0	0	0	0	180,000	180,000	0	0	0	0	180,000
9. Tribal College Assistance Program (11)											
842,085	0	0	0	0	842,085	842,085	0	0	0	0	842,085
a. Tribal Increase (Restricted/OTO)											
161,378	0	0	0	0	161,378	161,378	0	0	0	0	161,378
10. Guaranteed Student Loan Program (12)											
0	0	54,343,089	0	0	54,343,089	0	0	54,342,527	0	0	54,342,527
a. Legislative Audit (Restricted/Biennial)											
0	0	16,160	0	0	16,160	0	0	0	0	0	0
11. Board of Regents Administration (13)											
70,408	0	0	0	0	70,408	70,408	0	0	0	0	70,408
Total											
235,663,673	21,011,272	65,541,374	541,420	0	322,757,739	239,045,894	21,013,880	65,738,613	541,565	0	326,339,952

Items designated as Administration Program (01), Student Assistance Program (02), Improving Teacher Quality (03), Educational Outreach and Diversity (06), Workforce Development Program (08), Appropriation Distribution Transfers (09), Guaranteed Student Loan Program (12), and Board of Regents Administration (13) are a single biennial lump-sum appropriation.

The Commissioner of Higher Education, as chairman of the Advisory Panel, is authorized by the Board of Regents of Higher Education to approve disbursements consistent with the research awards recommended by the Advisory Panel.

	Fiscal 2016						Fiscal 2017					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

It is the intent of the legislature that the advisory panel should be composed of one member of the Montana house of representatives, one member of the Montana senate, one agriculture/agribusiness representative, one natural resources industry representative, one health-biomedical industry representative, one Montana state university representative, one university of Montana representative, and the commissioner of higher education.

General fund money, state and federal special revenue, and proprietary fund revenue appropriated to the board of regents are included in all Montana university system programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in HB 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy.

The Montana university system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division Banner access to the entire university system's Banner information system, except for information pertaining to individual students or individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

The Montana university system shall provide the electronic data required for entering human resource data for the current unrestricted operating funds into the internet budgeting and reporting system (IBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.

The variable cost of education for each full-time equivalent student at the community colleges is $2,863 for each year of the 2017 biennium. The general fund appropriation for Community College Assistance provides 50.8% in FY 2016 and 50.8% in FY 2017 of the budget amount for each full-time equivalent student each year of the 2017 biennium. The remaining percentage of the budget amount for each full-time equivalent student must be paid from funds other than those appropriated for Community College Assistance.

Community College Assistance transfers includes $23,553 in FY 2016 and $23,553 in FY 2017 that must be transferred to the energy conservation program account and used to repay the state building revolving fund for energy improvements for Miles community college.

The general fund appropriation for Community College Assistance is calculated to fund education in the community colleges for an estimated 1,962 resident FTE students each year of the 2017 biennium. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated numbers for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

Total audit costs are estimated to be $162,400 for the community colleges for the biennium. The general fund appropriation for each community college provides 50.8% of the total audit costs in the 2017 biennium. The remaining 49.2% of these costs must be paid from funds other than those appropriated for Community College Assistance — Legislative Audit. Audit costs charged to the community colleges for the biennium may not exceed $64,000 for Dawson, $46,900 for Miles, and $51,500 for Flathead Valley community colleges. Total audit cost for OCHE is $43,092, GSL program $16,160, and the university system at U of M-Missoula $272,918 and MSU-Bozeman $272,918.

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Appropriation Distribution Transfers includes $1,345,976 in FY 2016 and $1,344,571 in FY 2017 that must be transferred to the energy conservation program account and used to retire the general obligation bonds sold to fund energy improvements through the state energy conservation program and the state building energy revolving program. The costs of this transfer in each year of the 2017 biennium are as follows: University of Montana-Missoula, $460,580 in FY 2016 and $459,951 in FY 2017; University of Montana-Western, $141,482 in FY 2016 and $140,706 in FY 2017; UM-Helena College, $61,649 in each year; Montana State University-Bozeman, $325,388 in each year; Montana State University-Billings $170,542 in each year; UM Montana Tech, $32,099 in each year; Great Falls COT $86,500 in each year; and Montana State University-Northern, $67,736 in each year.

If SB 416 is passed and approved, Agricultural Experiment Station is reduced by $300,000 in general fund money in FY 2016 and by $300,000 in general fund money in FY 2017; Extension Service is reduced by $125,000 in general fund money in FY 2016 and by $125,000 in general fund money in FY 2017; and the Forestry and Conservation Experiment Station is reduced by $75,000 in general fund money in FY 2016 and by $75,000 in general fund money in FY 2017. The commissioner of higher education may allocate the reduction among these three appropriations when establishing the 2017 biennium operating plan.

Classroom and Technology Collaboration is contingent on passage and approval of SB 416.

The Montana university system shall pay $88,506 for the 2017 biennium in current funds in support of the Montana natural resource information system (NRIS) located at the Montana state library. Quarterly payments must be made upon receipt of the bills from the state library, up to the total amount appropriated.

Employee Pay and State Share may be allocated and transferred among agency programs when establishing 2017 biennium operating plans.

SCHOOL FOR THE DEAF AND BLIND (51130)

1. Administration Program (01)											
482,146	2,940	0	0	0	485,086	481,995	2,940	0	0	0	484,935
a. Legislative Audit (Restricted/Biennial)											
23,342	0	0	0	0	23,342	0	0	0	0	0	0
2. General Services Program (02)											
515,356	0	0	0	0	515,356	516,374	0	0	0	0	516,374
3. Student Services Program (03)											
1,627,471	0	23,000	0	0	1,650,471	1,628,847	0	23,000	0	0	1,651,847
Student Travel (Restricted/OTO)											
30,000	0	0	0	0	30,000	30,000	0	0	0	0	30,000
4. Education (04)											
4,232,729	255,121	47,334	0	0	4,535,184	4,222,616	255,469	47,435	0	0	4,525,520

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Software Lending Library (Restricted/Biennial/OTO)											
12,500	0	0	0	0	12,500	12,500	0	0	0	0	12,500
b. Extracurricular Compensation (Restricted/Biennial/OTO)											
26,938	0	0	0	0	26,938	26,938	0	0	0	0	26,938
Total											
6,950,482	258,061	70,334	0	0	7,278,877	6,919,270	258,409	70,435	0	0	7,248,114
MONTANA ARTS COUNCIL (51140)											
1. Promotion of the Arts (01)											
501,126	222,304	0	0	0	723,430	503,329	223,059	0	0	0	726,388
a. Legislative Audit (Restricted/Biennial)											
21,546	0	0	0	0	21,546	0	0	0	0	0	0
b. Federal Funds (Biennial)											
0	0	707,600	0	0	707,600	0	0	692,192	0	0	692,192
c. Arts in Education - Glass Blowing (Restricted/Biennial/OTO)											
25,000	0	0	0	0	25,000	0	0	0	0	0	0
Total											
547,672	222,304	707,600	0	0	1,477,576	503,329	223,059	692,192	0	0	1,418,580
MONTANA STATE LIBRARY (51150)											
1. Statewide Library Resources (01)											
3,011,601	1,745,838	572,137	0	0	5,329,576	3,017,491	1,742,828	572,178	0	0	5,332,497
a. Legislative Audit (Restricted/Biennial)											
21,546	0	0	0	0	21,546	0	0	0	0	0	0
b. Library Services and Technology Act Grants (Biennial)											
0	0	1,100,000	0	0	1,100,000	0	0	44,956	0	0	44,956

Fiscal 2016						Fiscal 2017					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
3,033,147	1,745,838	1,672,137	0	0	6,451,122	3,017,491	1,742,828	617,134	0	0	5,377,453
MONTANA HISTORICAL SOCIETY (51170)											
1. Administration Program (01)											
1,064,672	128,039	72,844	248,898	0	1,514,453	1,060,374	127,921	73,073	248,579	0	1,509,947
a. Legislative Audit (Restricted/Biennial)											
39,501	0	0	0	0	39,501	0	0	0	0	0	0
2. Research Center (02)											
1,236,262	113,931	0	34,377	0	1,384,570	1,237,546	114,055	0	34,753	0	1,386,354
3. Museum Program (03)											
619,150	397,531	0	3,008	0	1,019,689	619,151	397,538	0	3,009	0	1,019,698
4. Publications Program (04)											
155,946	0	0	322,038	0	477,984	155,562	0	0	321,691	0	477,253
5. Education Program (05)											
272,684	109,172	0	25,180	0	407,036	271,647	108,597	0	25,160	0	405,404
6. Historic Preservation Program (06)											
40,638	0	687,870	45,060	0	773,568	40,546	0	688,362	45,063	0	773,971
Total											
3,428,853	748,673	760,714	678,561	0	5,616,801	3,384,826	748,111	761,435	678,255	0	5,572,627
TOTAL SECTION E											
1,031,575,495	33,818,830	236,214,661	1,219,981	0	1,302,828,967	1,050,430,149	33,819,903	236,686,266	1,219,820	0	1,322,156,138
TOTAL STATE FUNDING											
2,005,134,302	761,030,487	2,227,197,579	18,119,283	0	5,011,481,651	2,046,196,804	770,568,030	2,303,551,849	17,626,763	0	5,137,943,446

Section 12. Rates. Internal service fund type fees and charges established by the legislature for the 2015 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	Fiscal 2016	Fiscal 2017
DEPARTMENT OF REVENUE – 5801		
1. Business and Income Taxes Division		
Delinquent Account Collection Fee (percent of amount collected)	5%	5%
DEPARTMENT OF ADMINISTRATION — 6101		
1. Director's Office		
a. Management Services		
Total Allocation of Costs	$1,658,964	$1,598,962
b. Portion of Unit for Human Resources Charges Per FTE of User Programs	$752	$752
c. Continuity, Emergency Preparedness, and Security Program	$725,967	$725,967
2. State Financial Services Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	$4,008,249	$3,818,905
b. Warrant Writer		
Mailer	$0.92500	$0.92500
Nonmailer	$0.40000	$0.40000
Emergency	$15.0000	$15.0000
Duplicates	$10.0000	$10.0000
Externals		
Externals - Payroll	$0.16861	$0.16368
Externals - Other	$0.13500	$0.13500
Direct Deposit		
Direct Deposit - Mailer	$1.10000	$1.10000
Direct Deposit - No Advice Printed	$0.15000	$0.15000
Unemployment Insurance		
Mailer - Print Only	$0.13280	$0.13141
Direct Deposit - No Advice Printed	$0.03910	$0.03308
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	$9.780	$9.802
Warehouse Rent (per sq. ft.)	$4.625	$4.637
Grounds Maintenance (per sq. ft)	$0.615	$0.615
Project Management - In-house	15%	15%
Project Management - Consultation	Actual Cost	Actual Cost
State Employee Access ID Replacement Card	Actual Cost	Actual Cost

$3,259,623 of revenue collected related to Facilities Management rates is to be deposited into a State Special Revenue Fund. These types of projects are appropriated in HB 403 for major maintenance projects on the Capitol Complex.

b. Print and Mail Services		
Internal Printing		
Impression Cost		
1-20	$0.0870	$0.0870
21-100	$0.0400	$0.0400
101-1000	$0.0220	$0.0220
1001-5000	$0.0080	$0.0080
5000+	$0.0050	$0.0050
Color Copy		
8 ½ x 11	$0.2500	$0.2500
11 x 17	$0.5000	$0.5000
Ink		
Black per Sheet	$0.00024	$0.00024
Color	$15.0000	$15.0000
Special Mix	$25.0000	$25.0000
Large Format Color per ft.	$12.7000	$12.7000
Collating Machine	$0.0085	$0.0085
Collating Hand	$0.6400	$0.6400
Stapling Hand	$0.0180	$0.0180
Stapling In-line	$0.0120	$0.0120
Saddle Stitch	$0.0360	$0.0360
Folding (base + per sheet)	$12.00 + $0.006	$12.00 + 0.006
Folding Rt Angle (base + per sheet)	$12.00 + $0.006	$12.00 + 0.006
Folding In-line	$0.0360	$0.0360
Punching Standard 3-hole	$0.0012	$0.0012
Punching Nonstandard (base + per sheet)	$3.60 + $0.0012	$3.60 + 0.0012
Cutting	$0.6600	$0.6600
Padding	$0.0024	$0.0024
Scoring, perf, num (setup + duplicating rate)	$6.00 + Dup Rate	$6.00 + Dup Rate
Perfect Binding (setup + per sheet)	$18.00 + $0.66	$18.00 + $0.66
Inventory Markup	15%	15%
Spiral Binding	$0.7900	$0.79000
Laminating		
8 ½ x 11	$0.5700	$0.5700
11 x 17	$0.8500	$0.8500
Tape Binding	$0.6000	$0.6000
Shrink Wrapping	$0.3000	$0.3000
Hand Work Production	$0.6400	$0.6400
Overtime	$24.0000	$24.0000
Desktop	$65.0000	$65.0000
Scan	$9.5200	$9.5200
Large Format Color	$12.7000	$12.7000
Proof	$0.2500	$0.2500
Programming	$65.0000	$65.0000

File Transfer	$25.0000	$25.0000
Variable Data	$0.02000	$0.02000
Mainframe Printing	$0.0690	$0.0690
CD Duplicating	$1.7500	$1.7500
DVD Duplicating	$3.5000	$3.5000
Silver Plates		
8 ½ x 11	$9.2000	$9.2000
11 x 17	$10.3500	$10.3500
CTP Plates		
8 ½ x 11	$9.2000	$9.2000
11 x 17	$10.3500	$10.3500
External Printing		
Percent of Invoice markup	7.30%	7.30%
Photocopy Pool		
Percent of Invoice markup	15.90%	15.90%
Mail Preparation		
Tabbing	$0.0210	$0.0210
Labeling	$0.0210	$0.0210
Ink Jet	$0.0340	$0.0340
Inserting	$0.0300	$0.0300
Waymark	$0.0690	$0.0690
Permit Mailings	$0.0690	$0.0690
Mail Operations		
Machinable	$0.0430	$0.0430
Nonmachinable	$0.1000	$0.1000
Seal Only	$0.0200	$0.0200
Postcards	$0.0600	$0.0600
Certified Mail	$0.6140	$0.6140
Registered Mail	$0.6140	$0.6140
International Mail	$0.5000	$0.5000
Flats	$0.1400	$0.1400
Priority	$0.6140	$0.6140
Express Mail	$0.6140	$0.6140
USPS Parcels	$0.5000	$0.5000
Insured Mail	$0.6140	$0.6140
Media Mail	$0.3070	$0.3070
Standard Mail	$0.2000	$0.2000
Postage Due	$0.0610	$0.0610
Fee Due	$0.0610	$0.0610
Tapes	$0.2450	$0.2450
Express Services	$0.5000	$0.5000
Mail Tracking	$0.2500	$0.2500
Cass Letters/Postcards	$0.0430	$0.0430
Cass Flats	$0.1000	$0.1000
Flat Sorter	$0.2500	$0.2500

Interagency Mail	$355,570 yearly	$355,570 yearly
Postal Contract (Capitol)	$38,976 yearly	$38,976 yearly

4. Information Technology Services Division

Rates Maintained/Based Upon Financial Transparency Model (FTM)

Operations of the Division	30-Day Working Capital Reserve

5. Health Care and Benefits Division

The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of $15,732,717 in FY 2016 and $15,747,437 in FY 2017, operating costs of $24,278,456 in FY 2016 and $25,805,921 in FY 2017, and equipment and intangible assets of $746,242 in each year of the biennium. State agencies shall report to the state information technology services division which services they wish to purchase as a result of the changes to fixed costs for information technology services. The state information technology services division shall report to the legislative finance committee at its June 2015 meeting on how they implemented these state agency requests.

a. Worker's Compensation Management Program		
Administrative fee	$0.99	$0.98
~~b. Flexible spending Account Program~~		
~~FSA Account~~	~~$2.25~~	~~$2.25~~
~~FSA Debit Card~~	~~$1.00~~	~~$1.00~~

6. State Human Resources Division

a. Intergovernmental Training		
Open Enrollment Courses		
Two-Day Course (per participant)	$190.00	$190.00
One-Day Course (per participant)	$123.00	$123.00
Half-Day Course (per participant)	$95.00	$95.00
Eight-Day Management Series (per participant)	$800.00	$800.00
Six-Day Management Series (per participant)	$600.00	$600.00
Four-Day Administrative Series (per participant)	$400.00	$400.00
Contract Courses		
Full-Day Training (flat fee)	$830.00	$830.00
Half-Day Training (flat fee)	$570.00	$570.00
b. Human Resources Information System Fee		
Per payroll warrant advice per pay period	$7.82	$7.83

7. Risk Management & Tort Defense

Auto Liability, Comprehensive, and Collision (total allocation to agencies)	$1,498,200	$1,498,200
Aviation (total allocation to agencies)	$169,961	$169,961
General Liability (total allocation to agencies)	$10,824,476	$10,824,476
Property/Miscellaneous (total allocations to agencies)	$6,300,000	$6,300,000

DEPARTMENT OF COMMERCE – 6501

1. Board of Investments

For the purposes of [this act], the legislature defines "rates" as the total collections necessary to operate the board of investments as follows:

a. Administration Charge (total)	$6,031,846	$6,031,846

2. Director's Office/Management Services		
a. Management Services Indirect Charge Rate		
State	14.10%	14.10%
Federal	14.10%	14.10%
DEPARTMENT OF LABOR AND INDUSTRY – 6602		
1. Centralized Services Division		
a. Cost Allocation Plan	8.00%	8.00%
b. Office of Legal Services (direct hourly rate)	$103	$103
2. Technology Services Division		
a. Indirect Rate	$256	$256
b. Direct Rate	$84	$84
c. Enterprise Services Rate (Total amount allocated to divisions based on FTE)	$964,715	$968,791
d. Direct Actuals Rate (pass through to divisions)	$4,102,160	$4,107,207
DEPARTMENT OF FISH, WILDLIFE, & PARKS — 5201		
1. Vehicle and Aircraft Rates		
Per Mile Rates		
a. Sedans	$0.460	$0.460
b. Vans	$0.530	$0.530
c. Utilities	$0.580	$0.580
d. Pickup 1/2 ton	$0.530	$0.530
e. Pickup 3/4 ton	$0.610	$0.610
Per Hour Rates		
f. Two-Place Single Engine	$150.000	$150.000
g. Partnavia	$500.000	$500.000
h. Turbine Helicopters	$500.000	$500.000
2. Duplicating Center		
Per Copy		
a. 1-20	$0.075	$0.075
b. 21-100	$0.055	$0.055
c. 101-1,000	$0.056	$0.056
d. 1,001-5,000	$0.045	$0.045
e. color copies	$0.250	$0.250
Bindery		
a. Collating (per sheet)	$0.010	$0.010
b. Hand Stapling (per set)	$0.020	$0.020
c. Saddle Stitch (per set)	$0.035	$0.035
d. Folding (per set)	$0.010	$0.010
e. Punching (per set)	$0.005	$0.005
f. Cutting (per minute)	$0.600	$0.600
3. Warehouse Overhead Rate	25%	25%
DEPARTMENT OF ENVIRONMENTAL QUALITY — 5301		
Indirect Rate		
a. Personal Services	24%	24%
b. Operating Expenditures	4%	4%

DEPARTMENT OF TRANSPORTATION — 5401

1. State Motor Pool

In the motor pool program, if the price of gasoline goes above $2.50, Tier 2 rates may be charged if approved by the Office of Budget and Program Planning. If the price of gasoline goes above $3.00, Tier 3 rates may be charged if approved by the Office of Budget and Program Planning.

Tier one (contingent $2.50/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	$1.121	$1.249
Per Mile Operated	$0.126	$0.125
b. Class 03 (hybrid SUV)		
Per Hour Assigned	$2.372	$2.383
Per Mile Operated	$0.141	$0.142
c. Class 04 (large utilities)		
Per Hour Assigned	$1.636	$1.675
Per Mile Operated	$0.156	$0.157
d. Class 05 (hybrid sedans)		
Per Hour Assigned	$1.755	$1.766
Per Mile Operated	$0.091	$0.092
e. Class 06 (midsize compacts)		
Per Hour Assigned	$0.702	$0.721
Per Mile Operated	$0.125	$0.125
f. Class 07 (small pickups)		
Per Hour Assigned	$0.121	$0.132
Per Mile Operated	$0.189	$0.190
g. Class 11 (large pickups)		
Per Hour Assigned	$0.716	$0.714
Per Mile Operated	$0.195	$0.197
h. Class 12 (vans – all types)		
Per Hour Assigned	$0.983	$1.043
Per Mile Operated	$0.156	$0.157
Tier two (contingent $3.00/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	$1.121	$1.249
Per Mile Operated	$0.146	$0.145
b. Class 03 (hybrid SUV)		
Per Hour Assigned	$2.372	$2.383
Per Mile Operated	$0.160	$0.161
c. Class 04 (large utilities)		
Per Hour Assigned	$1.636	$1.675
Per Mile Operated	$0.185	$0.186
d. Class 05 (hybrid sedans)		
Per Hour Assigned	$1.755	$1.766
Per Mile Operated	$0.104	$0.104
e. Class 06 (midsize compacts)		
Per Hour Assigned	$0.702	$0.721
Per Mile Operated	$0.144	$0.144

f. Class 07 (small pickups)		
Per Hour Assigned	$0.121	$0.132
Per Mile Operated	$0.220	$0.221
g. Class 11 (large pickups)		
Per Hour Assigned	$0.716	$0.714
Per Mile Operated	$0.228	$0.230
h. Class 12 (vans – all types)		
Per Hour Assigned	$0.983	$1.043
Per Mile Operated	$0.179	$0180
Tier three (contingent $3.50/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	$1.121	$1.249
Per Mile Operated	$0.166	$0.165
b. Class 03 (hybrid SUV)		
Per Hour Assigned	$2.372	$2.383
Per Mile Operated	$0.180	$0.181
c. Class 04 (large utilities)		
Per Hour Assigned	$1.636	$1.675
Per Mile Operated	$0.214	$0.215
d. Class 05 (hybrid sedans)		
Per Hour Assigned	$1.755	$1.766
Per Mile Operated	$0.116	$0.117
e. Class 06 (midsize compacts)		
Per Hour Assigned	$0.702	$0.721
Per Mile Operated	$0.163	$0.163
f. Class 07 (small pickups)		
Per Hour Assigned	$0.121	$0.132
Per Mile Operated	$0.250	$0.251
g. Class 11 (large pickups)		
Per Hour Assigned	$0.716	$0.714
Per Mile Operated	$0.261	$0.263
h. Class 12 (vans – all types)		
Per Hour Assigned	$0.983	$1.043
Per Mile Operated	$0.203	$0.204
2. Equipment Program		
All of Program Operations	60-day working capital reserve	

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION — 5706

1. Air Operations Program		
a. Bell UH-1H	$1,650	$1,650
b. Bell Jet Ranger	$515	$515
c. Cessna 180 Series	$175	$175

DEPARTMENT OF JUSTICE – 4110

1. Agency Legal Services		
a. Attorney (per hour)	$106.00	$106.00
b. Investigator (per hour)	$62.00	$62.00

DEPARTMENT OF CORRECTIONS - 6401

1. Labor Charge for Motor Vehicle Maintenance (per hour)	$28.45	$28.45
2. Supply Fee as a Percentage of Actual Costs of Parts	8.00%	8.00%
3. Parts	Actual Cost	Actual Cost
4. Cook/Chill Rate — Hot/Cold Base Tray Price (no delivery)	$2.32	$2.35
5. Cook/Chill Rate – Hot Base Tray Price	$1.18	$1.22
6. Delivery Charge Per Mile	$0.50	$0.50
7. Delivery Charge Per Hour	$35.00	$35.00
8. Spoilage Percentage All Customers	5.00%	5.00%
9. Detention Center Trays	$2.92	$2.95
10. Accessory Package	$0.16	$0.16
11. Bulk Food	Actual Cost	Actual Cost
12. Overhead Charge		
a. Montana State Hospital	11%	11%
c. Montana State Prison	76%	76%
e. Treasure State Correctional Training Center	13%	13%
13. License Plates – Cost per set	$6.20	$6.20
14. Base Laundry Price per pound	$0.59	$0.60
Delivery Charge per pound		
a. Montana Developmental Center	$0.05	$0.05
b. Riverside Youth Correctional Facility	$0.05	$0.05
c. Montana Law Enforcement Academy	$0.15	$0.15
d. Montana Chemical Dependency Corp.	$0.04	$0.04
e. START Program	$0.01	$0.01
f. University of Montana	$0.20	$0.20

OFFICE OF PUBLIC INSTRUCTION - 3501

1. OPI Indirect Cost Pool		
a. Unrestricted Rate	15.70%	17.70%
b. Restricted Rate	15.20%	17.00%

Approved May 5, 2015

Note: The striking of language in sections 11 and 12 was done by Governor's line item veto dated May 5, 2015.

CHAPTER NO. 401

[HB 9]

AN ACT ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation of cultural and aesthetic grant funds — priority of disbursement. (1) The Montana arts council shall award grants for projects authorized by and limited to the amounts appropriated by [section 2] and this section. Money must be disbursed in priority order, first to projects covered under subsection (3) and second to projects listed in [section 2].

(2) The Montana arts council shall disburse money to projects authorized by [section 2] through grant contracts between the Montana arts council and the grant recipient. The award contract must bind the parties to conditions, if any, listed with the appropriation in [section 2].

(3) There is appropriated from the cultural and aesthetic projects trust fund account to the Montana historical society $30,000 for the biennium ending June 30, 2017, for care and conservation of capitol complex artwork.

Section 2. Appropriation of cultural and aesthetic grant funds. The following projects are approved, and $384,995 is appropriated to the Montana arts council for the biennium ending June 30, 2017, from the cultural and aesthetic projects trust fund account:

Grant #	Grantee	Amount
A. Special Project $4,500 or less		
1801	Council for the Arts, Lincoln	$3,000
1805	Preservation Cascade, Inc.	$3,000
1807	The Extreme History Project	$2,000
1804	Granite County Museum and Cultural Center	$2,000
1806	Signatures from Big Sky	$2,000
1800	Cohesion Dance Project	$2,000
1802	Dolce Canto, Inc.	$2,000
B. Special Projects		
1828	Montana Preservation Alliance	$10,000
1827	Montana Performing Arts Consortium	$10,000
1822	Humanities Montana	$10,000
1824	Missoula Writing Collaborative	$5,000
1815	CoMotion Dance Project	$8,000
1826	Montana Historical Society	$7,000
1831	Upper Swan Valley Historical Society, Inc.	$4,000
1813	Chouteau County Performing Arts	$3,000
1812	Butte-Silver Bow Public Archives	$7,000
1816	Emerson Center for the Arts & Culture	$3,000
1820	Helena Symphony	$5,000
1817	Friends of Chief Plenty Coups Advisory Council	$3,000
1818	Grandstreet Broadwater Productions, Inc.	$5,000
1821	Hockaday Museum of Art	$3,000

1823	International Choral Festival	$3,000
1810	Bozeman Symphony Society	$5,000
1819	Headwaters Dance Co.	$3,000
1830	Musikanten, Inc.	$2,000
1809	Alpine Artisans, Inc.	$3,000
1814	Clay Arts Guild of Helena	$2,000
C. Operational Support		
1860	Montana Arts	$10,000
1861	Montana Association of Symphony Orchestras	$10,000
1854	MAGDA	$10,000
1865	Museums Association of Montana	$10,000
1862	Montana Dance Arts Association	$10,000
1879	VSA Montana	$8,000
1835	Art Mobile of Montana	$10,000
1864	Montana Shakespeare in the Parks	$10,000
1863	Montana Repertory Theatre	$10,000
1873	Schoolhouse History & Art Center	$8,345
1856	MCT, Inc.	$8,000
1834	Archie Bray Foundation	$8,000
1885	Zootown Arts Community Center	$6,000
1855	Mai Wah Society	$4,000
1876	Stillwater Historical Society	$6,000
1848	Great Falls Symphony	$6,000
1858	Missoula Cultural Council	$2,000
1878	Verge Theater	$3,000
1842	Carbon County Arts Guild & Depot Gallery	$4,000
1849	Hamilton Players, Inc.	$5,000
1852	Intermountain Opera Association	$5,000
1867	Paris Gibson Square Museum of Art	$6,000
1884	Yellowstone Art Museum	$4,000
1875	Southwest Montana Arts Council	$5,000
1851	Holter Museum of Art	$4,000
1866	Northwest Montana Historical Society	$4,000
1870	Queen City Ballet Company	$5,000
1871	Ravalli County Museum	$5,000
1882	Whitefish Theatre Co.	$4,000
1836	Beaverhead County Museum	$4,000
1837	Big Horn Arts and Craft Association	$4,000
1880	WaterWorks Art Museum	$4,000
1846	Gallatin Historical Society	$4,000
1859	MonDak Heritage Center	$4,000
1877	Sunburst Foundation	$4,000
1838	Billings Symphony Society	$4,000
1883	World Museum of Mining	$4,000

1832	Alberta Bair Theater	$4,000
1850	Helena Presents/Myrna Loy Center	$4,000
1869	Pondera History Association (PHA)	$4,000
1843	Carbon County Historical Society	$4,000
1872	Rocky Mountain Ballet Theatre	$4,000
1844	Creative Arts Council	$4,000
1874	Shane Lalani Center for the Arts	$3,000
1853	Irwin & Florence Rosten Foundation	$3,000
D. Capital Expenditure		
1886	City of Shelby Champions Park	$3,000
1887	Missoula Art Museum	$5,000
1890	Original Montana Club	$7,650

Section 3. Reversion of grant money. On July 1, 2017, the unencumbered balance of the grants for the biennium ending June 30, 2017, reverts to the cultural and aesthetic projects trust fund account provided for in 15-35-108.

Section 4. Changes to grants on pro rata basis. Except for the appropriation provided for in [section 1(3)], if the interest earnings for the cultural and aesthetic projects trust fund exceed the projections of $450,000 in FY 2016 and $430,000 in FY 2017, both the appropriation and the grants for the projects contained in [section 2] may be increased by the percent increase of the actual revenue. Increases to the grant amount may not exceed the amount of the original request. If money in the cultural and aesthetic projects trust fund account is insufficient to fund projects at the appropriation levels contained in [section 2], reductions to those projects with funding greater than $2,000 must be made on a pro rata basis.

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 402

[HB 28]

AN ACT REQUIRING THE BOARD OF PARDONS AND PAROLE TO VIDEO-RECORD AND AUDIO-RECORD MEETINGS OF THE BOARD AND ALL HEARINGS HELD TO CONSIDER PAROLE, RESCISSION, REVOCATION, OR CLEMENCY DECISIONS; REQUIRING THE BOARD TO MAKE THE RECORDINGS PUBLICLY AVAILABLE; AMENDING SECTION 46-23-110, MCA; AND PROVIDING A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-23-110, MCA, is amended to read:

"46-23-110. Records — dissemination. (1) *(a)* The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in 2-6-102*, 2-6-110,* and this section.

(b) The board shall video-record and audio-record all meetings held pursuant to 46-23-104(2) and all hearings conducted under part 2 or part 3 of this chapter or 46-23-1025. A recording may not personally identify the victim without the victim's written consent.

(c) Except as provided in subsection (2), the board shall make video recordings publicly available.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the ~~file~~ *record* requested and determine whether any document in the file *or any content in a video recording* is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document *or redact content of a video recording* if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's *or recording's* contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied."

Section 2. Termination. [Section 1] terminates June 30, 2019.

Approved May 5, 2015

CHAPTER NO. 403

[HB 33]

AN ACT EXPANDING MENTAL HEALTH CRISIS INTERVENTION AND JAIL DIVERSION SERVICES TO AREAS OF THE STATE THAT LACK SERVICES; REVISING REQUIREMENTS OF THE CRISIS INTERVENTION AND JAIL DIVERSION GRANT PROGRAM FOR COUNTIES; REDUCING LOCAL GOVERNMENT ENTITLEMENT SHARE PAYMENTS AND CERTAIN CALCULATIONS FOR THE PURPOSE OF PROVIDING FUNDING; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-1-121 AND 53-21-1203, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment — purpose — appropriation. (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct

payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-9-506; and

(iv) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(h) late filing fees pursuant to 61-3-220;

(i) title and registration fees pursuant to 61-3-203;

(j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;

(l) special mobile equipment fees pursuant to 61-3-431;

(m) single movement permit fees pursuant to 61-4-310;

(n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in *the prior* fiscal year ~~2010~~ as an entitlement share payment under this section is the base component for the *subsequent* fiscal year ~~2011~~ distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. ~~The~~ *Subject to subsection (3)(b), the* sum of all local governments' base components is the fiscal year entitlement share pool.

(b) ~~The~~ *For fiscal year 2016, the fiscal year entitlement share pool is reduced by $1,049,904* ~~total amount received by each local government in fiscal year 2011 as an entitlement share payment under this section is the base component for fiscal year 2012 and 2013 distributions, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool~~.

(4) (a) ~~With the exception of fiscal years 2012 and 2013~~ *Subject to subsection (3)(b)*, the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year~~, with the exception of fiscal years 2012 and 2013~~.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the current year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in ~~subsection~~ *subsections* (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsection (4)(b)(iii), the entitlement share growth rate is the lesser of:

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. ~~The~~ *Subject to subsection (4)(b)(iv), the* entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) For fiscal year 2016, the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment minus $1,049,904 to determine the subsequent fiscal year payment.

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided

for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Except for the distribution made under 15-1-123(2)(b), the distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) Except for the reimbursement made under 15-1-123(4)(b), one-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Deer Lodge	TIF District 1	$2,833
Deer Lodge	TIF District 2	2,813
Flathead	Kalispell - District 2	4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009
Silver Bow	Butte - uptown	255,421

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, from countywide transportation block grants, or from countywide retirement block grants.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

Section 2. Section 53-21-1203, MCA, is amended to read:

"53-21-1203. State matching fund grants for county crisis intervention, jail diversion, precommitment, and short-term inpatient treatment costs. (1) As soon as possible after July 1 of each year, from funds appropriated by the legislature for the purposes of this section, the department shall grant to each eligible county state matching funds for:

(a) jail diversion and crisis intervention services to implement 53-21-1201 and 53-21-1202;

(b) insurance coverage against catastrophic precommitment costs if a county insurance pool is established pursuant to 2-9-211; and

(c) short-term inpatient treatment.

(2) Grant amounts must be based on available funding and the prospects that a county or multicounty plan submitted pursuant to subsection (3) will, if implemented, reduce admissions to the state hospital for emergency and court-ordered detention and evaluation and ultimately result in cost savings to the state. The department shall develop a sliding scale for state grants based upon the historical county use of the state hospital with a high-use county receiving a lower percentage of matching funds. The sliding scale must be based upon the number of admissions by county compared to total admissions and upon the population of each county compared to the state population.

(3) In order to be eligible for the state matching funds, a county shall, in the time and manner prescribed by the department:

(a) apply for the funds and include in the grant application a detailed plan for how the county and other local entities will collaborate and commit local funds for the mental health services listed in subsection (1);

(b) develop and submit to the department a county or multicounty jail diversion and crisis intervention services strategic plan pursuant to 53-21-1201 and 53-21-1202, including a plan for community-based or regional emergency and court-ordered detention and examination services and short-term inpatient treatment;

(c) participate in a statewide or regional county insurance plan for precommitment costs under 53-21-132 if a statewide or regional insurance plan has been established as authorized under 2-9-211;

(d) participate in a statewide or regional jail suicide prevention program if one has been established by the department for the state or for the region in which the county is situated; and

(e) collect and report data and information on county jail diversion, crisis intervention, and short-term inpatient treatment services in the form and manner prescribed by the department to support program evaluation and measure progress on performance goals.

(4) (a) For the biennium beginning July 1, 2015, money appropriated for the purposes of this section that exceeds the amount appropriated for this purpose in fiscal year 2015 must be used in the following order to:

(i) create crisis intervention or jail diversion services in areas of the state that currently lack services;

(ii) provide new crisis intervention or jail diversion services in areas of the state that have received state matching funds pursuant to this section for other purposes; or

(iii) recognize an increase in the demand for or use of services that have received funding in previous years.

(b) For the biennium beginning July 1, 2015, the department shall, at a minimum, maintain the level of state matching funds provided to counties that received matching funds in fiscal year 2015 if the counties request continued funding of the services created or provided through use of the matching funds. If a county requests additional matching funds for continued funding of services provided through use of matching funds in previous years, the department shall consider whether the service is experiencing increased demand or use as provided in subsection (4)(a)(iii) and is eligible for increased funding.

~~(4)~~*(5)* The department shall adopt rules ~~by August 1, 2011,~~ to implement the provisions of this section."

Section 3. Appropriation. (1) There is appropriated $2 million from the general fund to the department of public health and human services for the biennium beginning July 1, 2015, to provide state matching funds pursuant to 53-21-1203.

(2) Expenditures from this appropriation are intended to be ongoing and must be included in the budget prepared by the governor for the 2019 biennium.

Section 4. Coordination instruction. (1) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of $1.85 million or more to the department of public health and human services in each year of the biennium beginning July 1, 2015, for state matching funds granted pursuant to 53-21-1203, then [section 3 of this act] is void.

(2) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of less than $1.85 million but more than $850,000 in each year of the biennium beginning July 1, 2015, to the department of public health and human services for state matching funds granted pursuant to 53-21-1203, then the appropriation in House Bill No. 2 must be reduced to $850,000 in each year of the biennium.

(3) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of less than $850,000 in each year of the biennium beginning July 1, 2015, to the department of public health and human services for state matching funds granted pursuant to 53-21-1203, then the appropriation in House Bill No. 2 is void and the appropriation in [this act] must be increased to $3.7 million for the biennium.

Section 5. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 404

[HB 34]

AN ACT APPROPRIATING FUNDS TO INCREASE THE NUMBER OF CONTRACTED SECURE PSYCHIATRIC TREATMENT BEDS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) There is appropriated $600,000 from the general fund to the department of public health and human services in each year of the biennium beginning July 1, 2015.

(2) The appropriation must be used to contract for psychiatric treatment beds that may be used for treatment services, as allowed under 53-21-1204.

(3) Expenditures from this appropriation are intended to be ongoing and must be included in the budget prepared by the governor for the 2019 biennium.

Section 2. Coordination instruction. (1) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of $815,000 in each year of the biennium beginning July 1, 2015, to the department of public health and human services to contract for psychiatric treatment beds as allowed under 53-21-1204, then [this act] is void.

(2) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of less than $815,000 but more than $215,000 in each year of the biennium beginning July 1, 2015, to the department of public health and human services to contract for psychiatric treatment beds as allowed under 53-21-1204, then the appropriation in House Bill No. 2 must be reduced to $215,000 in each year of the biennium.

(3) If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation of less than $215,000 in each year of the biennium beginning July 1, 2015, to the department of public health and human services to contract for psychiatric treatment beds as allowed under 53-21-1204, then the appropriation in House Bill No. 2 is void and the appropriation in [this act] must be increased to $815,000 in each year of the biennium.

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 405

[HB 114]

AN ACT CLARIFYING LAWS RELATED TO THE USAGE OF TAX INCREMENT REMITTANCES TO SCHOOL DISTRICTS TO ENSURE A REDUCTION IN LOCAL PROPERTY TAXES; PROVIDING A TRANSITION SECTION FOR A SCHOOL DISTRICT WITH AN EXISTING AGREEMENT WITH A LOCAL GOVERNMENT; PROVIDING A TIME PERIOD FOR A SCHOOL DISTRICT TO UTILIZE TAX INCREMENT REMITTANCES; AMENDING SECTIONS 7-15-4291, 20-9-104, AND 20-9-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-15-4291, MCA, is amended to read:

"7-15-4291. Agreements to remit unused portion of tax increments. *(1)* ~~The~~ *Subject to subsections (2) through (5), the* local government may also enter into agreements with the other affected taxing bodies to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289.

(2) Any portion of the increment remitted to a school district:

(a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-104 for the fiscal year following the fiscal year in which the remittance was received;

(b) must be deposited in one or more of the following funds that has a mill levy for the current school year, subject to the provisions of Title 20 and this section:

(i) general fund;

(ii) bus depreciation reserve fund;

(iii) debt service fund;

(iv) building reserve fund;

(v) technology acquisition and depreciation fund; and

(c) may not be transferred to any fund.

(3) The remittance will not reduce the levy authority of the school district receiving the remittance in years subsequent to the time period established by subsection (2)(a).

(4) Any portion of the increment remitted to a school district and deposited into the general fund must be designated as operating reserve, pursuant to 20-9-104 or used to reduce the BASE budget levy or the over-BASE budget levy in the following fiscal year.

(5) If a school district does not utilize the remitted portion to reduce property taxes or designate the remittance as operating reserve within the time period established by subsection (2)(a), the unused portion must be remitted as follows:

(a) if the area or district is in existence at the time of the remittance, the portion is distributed to the special fund in 7-15-4286(2)(a), and used as provided in 7-15-4282 through 7-15-4294; or

(b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant to 7-15-4292(2)(a)."

Section 2. Section 20-9-104, MCA, is amended to read:

"20-9-104. (Temporary) General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (6) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) ~~Any~~ *Except as provided in subsection (9), any* portion of the general fund end-of-the-year fund balance*, including any portion attributable to a tax increment remitted under 7-15-4291,* that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b) up to an amount not exceeding 15% of a school district's maximum general fund budget.

(5) ~~Any~~ *Except as provided in subsection (9), any* unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622; and

(b) 30% of the excess amount must be remitted to the school facility and technology account.

(6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less.

(8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority.

(9) Any portion of a tax increment remitted under 7-15-4291 and deposited in the district's general fund is not subject to the:

(a) 15% fund balance limit provided for in subsection (4); or

(b) provisions of subsection (5). (Terminates June 30, 2020—sec. 38, Ch. 400, L. 2013.)

20-9-104. (Effective July 1, 2020) General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (6) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3)*, including any portion attributable to a tax increment remitted under 7-15-4291,* is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b).

(5) ~~Any~~ *Except as provided in subsection (9), any* unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622; and

(b) 30% of the excess amount must be remitted to the school facility and technology account.

(6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less.

(8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority.

(9) Any portion of a tax increment remitted under 7-15-4291 and deposited in the district's general fund is not subject to the provisions of subsection (5)."

Section 3. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid, the natural resource development K-12 funding payment, and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; ~~and~~

(v) school district block grants distributed under 20-9-630*; and*

(vi) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of*:*

(i) any amount remaining after the determination in subsection (1)(c)*;*

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 4. Transition — existing agreements. (1) A school district that has executed an agreement with a local government pursuant to 7-15-4291 on or before [the effective date of this act] shall prepare a transition plan.

(2) (a) The transition plan must be limited to paying contractual obligations that were incurred prior to [the effective date of this act] when the increment was anticipated as a funding source for the contract when the contract was executed. In order to qualify as an obligation, there must be a written signed contract meeting all elements of 28-2-102 between a school district and a third party. Evidence of a contract does not include the listing of a capital project on a list or plan that was created before [the effective date of this act].

(b) (i) If the obligation relates to paying bonded indebtedness, a district may utilize the remittance for the life of the bond issue.

(ii) If the obligation relates other contracts, a district may utilize the increment to pay for the contracted project until the end of the contract.

(3) For the purpose of subsection (2), a contract does not include the agreement with a local government pursuant to 7-15-4291.

(4) If a portion of the increment does not satisfy the conditions of subsection (2), it must be expended according to the provisions of [sections 1 through 3].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Applicability. (1) Except as provided in subsection (2), [this act] applies to tax increment financing districts created after December 31, 1979.

(2) A school district that has executed an agreement with a local government pursuant to 7-15-4291 on or before [the effective date of this act] is subject to the provisions of [section 4].

Approved May 5, 2015

CHAPTER NO. 406

[HB 115]

AN ACT REVISING BOARD OF NURSING LAWS; PROVIDING FOR NURSING APPLICANTS TO SUBMIT TO CRIMINAL BACKGROUND

CHECKS; EXPANDING THE NURSING MEDICAL ASSISTANCE PROGRAM TO ALL LICENSEES; AND AMENDING SECTION 37-8-202, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Criminal background check. (1) Each applicant for licensure shall submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check. The Montana department of justice may share this fingerprint data with the federal bureau of investigation.

(2) Each license applicant is responsible to pay all fees charged in relation to obtaining the state and federal criminal history background check.

(3) The board may require licensees renewing their licenses to submit a full set of their fingerprints to the board for the purpose of obtaining a state and federal criminal history background check. The Montana department of justice may share this fingerprint data with the federal bureau of investigation.

Section 2. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization — meetings — powers and duties. (1) The board shall:

(a) meet annually and elect from among the members a president and a secretary;

(b) hold other meetings when necessary to transact its business;

(c) prescribe standards for schools preparing persons for registration and licensure under this chapter;

(d) provide for surveys of schools at times the board considers necessary;

(e) approve programs that meet the requirements of this chapter and of the board;

(f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list;

(g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses for prosecutions.

(h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses. If considered appropriate for an advanced practice registered nurse who applies to the board for authorization, prescriptive authority must be granted.

(i) adopt rules to define criteria for the recognition of registered nurses who are certified through a nationally recognized professional nursing organization as registered nurse first assistants; ~~and~~ *and*

(j) establish a medical assistance program to assist ~~licensed nurses~~ *licensees* who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness. The program must provide for assistance to licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state. For purposes of funding this medical

assistance program, the board shall adjust the renewal fee to be commensurate with the cost of the program.

(2) The board may:

(a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses;

(b) define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or the equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(c) establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of drugs that are allowed to be administered and the method of administration.

(d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

(e) adopt rules necessary to administer this chapter; and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the provisions of Title 37, chapter 8, part 4, apply to [section 1].

Approved May 5, 2015

CHAPTER NO. 407

[HB 156]

AN ACT EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL AND CARBON CAPTURE EQUIPMENT FROM PROPERTY TAXATION AND REDUCING PROPERTY TAXES FOR CARBON TRANSPORTATION AND SEQUESTRATION EQUIPMENT; PROVIDING FOR THE CERTIFICATION OF CARBON SEQUESTRATION EQUIPMENT; ALLOWING A CARRYFORWARD OF AN EXEMPTION OR RATE REDUCTION AFTER TAX YEAR 2025 FOR CERTAIN QUALIFYING PROPERTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-135, 15-6-158, AND 15-6-219, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.

WHEREAS, Montana industries are required to install certain air and water pollution control and carbon capture equipment to comply with state and federal standards as a result of recent and anticipated regulatory action, including but not limited to:

(1) the Utility Mercury and Air Toxics Rule;

(2) the Regional Haze Rule;

(3) the Clean Power Plan Rule;

(4) the Nitrogen Oxide Primary National Ambient Air Quality Standards;

(5) the Sulfur Dioxide Primary National Ambient Air Quality Standards;

(6) the Cooling Water Intakes 316(b) Rule;

(7) the Particulate Matter 2.5 National Ambient Air Quality Standards;

(8) the Effluent Guidelines for Coal-Fired Electrical Generating Units;

(9) the Maximum Achievable Control Technology Standards for industrial boilers;

(10) the Numeric Nutrient Criteria;

(11) the Portland Cement Maximum Achievable Control Technology Standards;

(12) Total Maximum Daily Loads;

(13) National Pollutant Discharge Elimination System, including stormwater discharge; and

(14) Additional new or future regulatory actions requiring the control of air or water pollution.

WHEREAS, compliance with these regulations requires investments of hundreds of millions of dollars and ultimately impacts consumers; and

WHEREAS, technologies to comply with these regulations are often unproven or not commercially or economically available; and

WHEREAS, these regulations address important protections for public health; and

WHEREAS, many of these regulations require installation of pollution control technologies that decrease the efficiency of existing equipment at industrial facilities; and

WHEREAS, reduced tax rates for pollution control equipment will improve public health by providing an incentive for early compliance when possible and ultimately making regulatory compliance more affordable; and

WHEREAS, incentivizing advancements and investments in carbon sequestration is important to the future of Montana's economy and consistent with the goals in Montana's state energy policy, including expanded technological innovation through enhanced oil recovery; and

WHEREAS, the Legislature of the State of Montana finds that it is appropriate to exempt certain air and water pollution control and carbon capture equipment from property taxation and reduce property taxes for carbon transportation and sequestration equipment.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property — description — taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control *and carbon capture* equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control *and carbon capture* equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment *certified as provided in subsections (2)(b) and (2)(c) and* designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. *This includes machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases.* Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control *and carbon capture* equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control *and carbon capture* equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control *and carbon capture* equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) To qualify for the exemption under subsection (5)(b), the air and water pollution control and carbon capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon capture equipment enhances the performance of existing air and water pollution control and carbon capture equipment, only the market value of the enhancement is subject to the exemption under subsection (5)(b).

(e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under subsection (5)(b) includes but is not limited to equipment placed into service to maintain, replace, or repair equipment installed on or before January 1, 2014.

~~(d)~~*(f)* A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification

must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) ~~Class~~ *(a) Except as provided in subsection (5)(b), class* five property is taxed at 3% of its market value.

(b) Air and water pollution control and carbon capture equipment placed in service after January 1, 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation for a period of 10 years from the date of certification, after which the property is assessed at 100% of its taxable value."

Section 2. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property — description — taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-414, were not paid during the construction phase.

(4) ~~Class~~ *(a) Except as provided in subsection (4)(b), class* fifteen property is taxed at 3% of its market value.

(b) Carbon sequestration equipment placed in service after January 1, 2014, that is certified as provided in subsection (5) and that has a current granted tax abatement under 15-24-3111 is taxed at 1.5% of its reduced market value during the qualifying period provided for in 15-24-3111(7).

(5) (a) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit

conditions. Certification remains in effect only as long as substantial compliance continues.

(b) The board of oil and gas conservation shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of carbon sequestration equipment. The board of oil and gas conservation shall identify and track compliance in the use of carbon sequestration equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(c) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the board of oil and gas conservation as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent."

Section 3. Section 15-6-219, MCA, is amended to read:

"15-6-219. Personal and other property exemptions. The following categories of property are exempt from taxation:

(1) harness, saddlery, and other tack equipment;

(2) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(a) construct, repair, and maintain improvements to real property; or

(b) repair and maintain machinery, equipment, appliances, or other personal property;

(3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(4) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

(5) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(a) the acquired cost of the personal property is less than $15,000;

(b) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(c) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly basis;

(6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance; ~~and~~

(7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105*; and*

(8) air and water pollution control and carbon capture equipment, as defined in 15-6-135, placed in service after January 1, 2014."

Section 4. Transition after termination — carryover of abatement. (1) (a) An exemption or property tax rate reduction that a taxpayer receives under the provisions of law in effect in 15-6-135, 15-6-158, or 15-6-219, prior to the termination date in [section 7]:

(i) may be carried forward for the remaining number of years left under the certification; and

(ii) is not impaired by [this act].

(b) A taxpayer is entitled to the exemption or property tax rate reduction for the period of time established in the section at the time the exemption or property tax rate reduction was first allowed.

(2) This section applies to all exemptions and property tax rate reductions that are removed or repealed by [section 7], including 15-6-135 for pollution control equipment and 15-6-158 for carbon sequestration.

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to air and water pollution control and carbon capture equipment and carbon sequestration equipment placed in service after January 1, 2014.

Section 7. Termination. [Sections 1 through 3] terminate December 31, 2025.

Approved May 5, 2015

CHAPTER NO. 408

[HB 150]

AN ACT REVISING PENALTIES FOR VIOLATION OF FISH AND WILDLIFE LAWS; REVISING PENALTIES FOR HARASSMENT OF HUNTERS AND WILDLIFE, HUNTING FROM A HIGHWAY, HUNTING FROM A VEHICLE, AND USE OF A VEHICLE WHILE HUNTING; AND AMENDING SECTIONS 87-6-215, 87-6-403, AND 87-6-405, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-215, MCA, is amended to read:

"87-6-215. Harassment. (1) (a) A person may not:

(i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

(ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or

(iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

(i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or

(ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of *or who forfeits bond or bail after being charged with* a violation of this section shall be fined not more than $500 or be imprisoned for not more than 30 days, or both. *In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state*

and the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of *or who forfeits bond or bail after being charged with* a second or subsequent violation *of this section within 5 years* shall be fined not *less than $500 or* more than $1,000 or be imprisoned for not more than ~~1 year~~ *6 months*, or both. *In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.*

~~(3)~~*(4)* A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

~~(4)~~*(5)* As used in this section:

(a) "fishing" means the lawful means of fishing as described in 87-6-501;

(b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

(c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal, predatory animal, or fish."

Section 2. Section 87-6-403, MCA, is amended to read:

"87-6-403. Unlawful hunting from public highway. (1) Except as provided in 87-2-803(4), a person may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(2) A person convicted of *or who forfeits bond or bail after being charged with* a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, ~~may be subject to forfeiture of~~ *shall forfeit* any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ *and* trap in this state ~~or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court~~ *for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period*.

(3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 3. Section 87-6-405, MCA, is amended to read:

"87-6-405. Unlawful use of vehicle while hunting. (1) Except as provided in 87-2-803(4), a person may not~~:~~

~~(a)~~ hunt or attempt to hunt any game animal or game bird from any self-propelled*, motor-driven,* or drawn vehicle~~; or~~

~~(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property~~.

(2) ~~Except as provided in 87-2-803(4), a~~ *A* person may not~~, while hunting a game animal or bird~~:

(a) ~~drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;~~ *concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of or attempt to concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of a game animal or game bird from or with the use or aid of a self-propelled, motor-driven, or drawn vehicle. This subsection (2)(a) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.*

(b) use a motor-driven vehicle other than on ~~an established~~ *a* road or trail *designated for travel by a landowner unless permission has been given by that landowner;* ~~unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.~~

~~(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.~~

~~(3)~~*(c) use a motor-driven vehicle on a road or trail on state land if that road or trail is posted as closed by the land management agency unless permission has been given by that land management agency.* The ~~restrictions~~ *restriction* in *this* subsection ~~(2)~~ *(2)(c)* ~~on motor-driven vehicle use off an established road or trail apply~~ *applies* only to ~~hunting on~~ state ~~or private~~ land and not to ~~hunting on~~ federal land ~~unless the federal agency specifically requests or approves state enforcement~~.

~~(4)~~*(3)* ~~A~~ *The following penalties apply for a violation of this section:*

(a) A person convicted of *or who forfeits bond or bail after being charged with* a violation of ~~this section~~ *subsection (1)* shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person~~, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of~~ *shall forfeit* any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ *and* trap in this state ~~or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court~~ *for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.*

(b) A person convicted of or who forfeits bond or bail after being charged with a violation of subsection (2) shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(c) A person convicted of or who forfeits bond or bail after being charged with a second or subsequent violation of subsection (2)(a) within 5 years shall be fined not less than $500 or more than $1,000 or be imprisoned for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish,

and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

~~(5)~~*(4)* A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 5, 2015

CHAPTER NO. 409

[HB 167]

AN ACT REVISING LAWS RELATED TO OFF-HIGHWAY VEHICLE NONRESIDENT TEMPORARY-USE PERMITS; INCREASING THE NONRESIDENT TEMPORARY-USE PERMIT FEE FOR OFF-HIGHWAY VEHICLES; REQUIRING A NONRESIDENT TEMPORARY-USE PERMIT FOR ALL OFF-HIGHWAY VEHICLES OWNED BY NONRESIDENTS; REQUIRING THAT MONEY COLLECTED FROM THE FEE BE USED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR CERTAIN PURPOSES; AND AMENDING SECTIONS 23-2-802 AND 23-2-814, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-802, MCA, is amended to read:

"23-2-802. Exemptions. The provisions of this part do not apply to:

(1) an off-highway vehicle~~:~~

~~(a)~~ owned or used by the United States or another state or an agency or political subdivision ~~thereof~~ *of the United States or another state*;

~~(b) registered in a country other than the United States, temporarily used within this state for not more than 30 days; or~~

~~(c) registered in another state of the United States, temporarily used within this state for not more than 30 days; or~~

(2) an off-highway vehicle registered in an adjacent state of the United States if:

(a) that state does not require payment of a fee to use off-highway vehicles registered in Montana in that state; and

(b) the off-highway vehicle is temporarily used within this state for not more than 30 days; or

~~(2)~~*(3)* a licensed motorcycle or licensed quadricycle used for fishing and hiking access, camping, or picnicking on a visible two-track trail or road within 1 mile of a designated road."

Section 2. Section 23-2-814, MCA, is amended to read:

"23-2-814. Nonresident temporary-use permits — *use of fees.* (1) ~~An~~ *Except as provided in 23-2-802, an* off-highway vehicle that is owned by a nonresident ~~and that is not registered in another state of the United States or in another country~~ may not be operated by a person in Montana unless a nonresident temporary-use permit is obtained.

(2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are as follows:

(a) Application for the issuance of the permit must be made at locations and upon forms prescribed by the department of fish, wildlife, and parks. The forms must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the off-highway vehicle; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of ~~$5~~ *$27, of which $1 is a search and rescue surcharge*, a nonresident off-highway vehicle temporary-use sticker must be issued. The sticker must be displayed in a conspicuous manner on the off-highway vehicle. The sticker is the temporary-use permit.

(3) The temporary-use permit is valid for the calendar year designated on the permit.

(4) The permit is not proof of ownership, and a certificate of title may not be issued.

(5) *(a)* ~~All money~~ *Except as provided in subsection (5)(b), money* collected by payment of fees under this section must be ~~transmitted to the department of revenue for deposit in the state general fund~~ *deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used as follows:*

(i) $15 must be expended to maintain off-highway vehicle trails;

(ii) $2.50 must be used by the department for enforcement of off-highway vehicle laws pursuant to 23-2-806;

(iii) $1 must be remitted to the license agent who sold the nonresident temporary-use permit;

(iv) $6 must be used by the department for off-highway vehicle safety education; and

(v) $1.50 must be used by the department to mitigate and eradicate noxious weeds along off-highway vehicle trails.

(b) The $1 search and rescue surcharge must be deposited in the account established in 10-3-801 for use as provided in that section.

(6) Failure to display the permit as required by this section or making false statements in obtaining the permit is a misdemeanor and is punishable by a fine of not less than $25 or more than $100. All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund."

Approved May 5, 2015

CHAPTER NO. 410

[HB 204]

AN ACT REVISING LAWS RELATING TO LIABILITY WAIVERS AND RELEASES; ALLOWING THE USE OF PROSPECTIVE LIABILITY WAIVERS AND RELEASES TO LIMIT LIABILITY FOR DAMAGES OR INJURIES SUSTAINED FROM PARTICIPATING IN SPORTS OR RECREATIONAL OPPORTUNITIES; AMENDING SECTIONS 27-1-753 AND 28-2-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the citizens of Montana and visitors to this state should enjoy the maximum ability to participate in sports or recreational opportunities; and

WHEREAS, public, private, and nonprofit entities that provide sports or recreational opportunities to citizens and visitors to this state need and deserve a measure of protection against lawsuits; and

WHEREAS, citizens and visitors to this state have a fundamental right and responsibility to make decisions concerning the activities in which they participate and the contracts and agreements in which they desire to enter; and

WHEREAS, individuals are accustomed to making conscious choices on their own behalf regarding the benefits and risks of various activities that are available; and

WHEREAS, such choices, when voluntarily made upon consideration of appropriate information, should not be ignored, but should be afforded the same value and legal effect as other choices and contractual obligations; and

WHEREAS, prospective liability waivers and releases encourage the availability and affordability of sports and recreational opportunities to citizens and visitors; and

WHEREAS, the Legislature intends to encourage the continued availability of sports or recreational opportunities in this state by shielding providers of such activities from claims resulting from conduct that constitutes ordinary negligence or for risks that are inherent in the sport or recreational opportunity; and

WHEREAS, the Legislature does not intend for liability waivers and releases to be used in a manner that would allow a person to waive or release claims for willful, wanton, reckless, or grossly negligent acts or omissions.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-1-753, MCA, is amended to read:

"27-1-753. Limitation on liability in sport or recreational opportunity. (1) A person who participates in any sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity, whether those risks are known or unknown, and is legally responsible for all injury or death to the person and for all damage to the person's property that result from the inherent risks in that sport or recreational opportunity.

(2) A provider is not required to eliminate, alter, or control the inherent risks within the particular sport or recreational opportunity that is provided.

(3) *(a)* Sections 27-1-751 through 27-1-754 do not preclude an action based on the negligence of the provider if the injury, death, or damage is not the result of an inherent risk of the sport or recreational opportunity.

(b) This section does not prohibit a written waiver or release entered into prior to engaging in a sport or recreational opportunity for damages or injuries resulting from conduct that constitutes ordinary negligence or for risks that are inherent in the sport or recreational opportunity.

(c) Any waiver or release for a sport or recreational opportunity must:

(i) state known inherent risks of the sport or recreational opportunity; and

(ii) contain the following statement in bold typeface: By signing this document you may be waiving your legal right to a jury trial to hold the provider legally responsible for any injuries or damages resulting from risks inherent in the sport or recreational opportunity or for any injuries or damages you may suffer due to the provider's ordinary negligence that are the result of the provider's failure to exercise reasonable care.

(d) Any waiver or release for a sport or recreational opportunity may still be challenged on any legal grounds.

(e) Any waiver or release for a sport or recreational opportunity executed in compliance with this section is not prohibited by or subject to the provisions of 28-2-702.

(4) Sections 27-1-751 through 27-1-754 do not apply to a cause of action based on the design, manufacture, provision, or maintenance of sports or recreational equipment or products or safety equipment used incidental to or required by the sport or recreational activity."

Section 2. Section 28-2-702, MCA, is amended to read:

"28-2-702. Contracts that violate policy of law — exemption from responsibility — *exception*. ~~All~~ *Except as provided in 27-1-753, all* contracts that have for their object, directly or indirectly, to exempt anyone from responsibility for the person's own fraud, for willful injury to the person or property of another, or for violation of law, whether willful or negligent, are against the policy of the law."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 411

[HB 211]

AN ACT REQUIRING THE POW/MIA FLAG TO BE DISPLAYED WITH THE FLAG OF THE UNITED STATES OF AMERICA AT SPECIFIED LOCATIONS TO SYMBOLIZE MONTANA'S CONCERN AND COMMITMENT TO ACHIEVING THE FULLEST POSSIBLE ACCOUNTING OF U.S. MILITARY PERSONNEL WHO ARE OR MAY IN THE FUTURE BECOME PRISONERS OF WAR, MISSING IN ACTION, OR OTHERWISE UNACCOUNTED FOR AS A RESULT OF HOSTILE ACTION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Display of POW/MIA flag. (1) The POW/MIA flag must be displayed on or in front of the locations specified in subsection (2) on any day when the flag of the United States of America is displayed. The display of the POW/MIA flag is to symbolize Montana's concern and commitment to achieving the fullest possible accounting of United States military personnel who, having been prisoners of war or missing in action, still remain unaccounted for or who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

(2) The POW/MIA flag must be displayed pursuant to subsection (1) at the following locations:

(a) the state capitol;

(b) any building that serves as the location of a state district court;

(c) any building that serves as the location of a city or town hall for an incorporated city or town; and

(d) any building that serves as the main administrative building of a county.

(3) The POW/MIA flag may be no larger than the national flag and must be displayed as follows:

(a) if the national and the POW/MIA flags are flown on the same flagpole, the POW/MIA flag must be directly below the national flag;

(b) if the national and state flags are flown on the same flagpole, the POW/MIA flag must be directly below the national flag;

(c) if the national and state flags are flown on two different flagpoles, the POW/MIA flag must be on the pole with and directly below the national flag;

(d) if the national and POW/MIA flags are flown on separate flagpoles, the POW/MIA flag must occupy the pole to the left of the national flag;

(e) if the national, state, and POW/MIA flags are to be flown on three separate flagpoles, the national flag must occupy the right pole, the POW/MIA flag must occupy the middle pole, and the state flag must occupy the far left pole.

(4) As used in this section, "POW/MIA flag" means the flag designated in 36 U.S.C 902 as the symbol of concern about United States military personnel taken as prisoners of war or listed as missing in action.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 5, and the provisions of Title 1, chapter 1, part 5, apply to [section 1].

Section 3. Effective date. [This act] is effective May 25, 2015.

Approved May 5, 2015

CHAPTER NO. 412

[HB 219]

AN ACT MAKING IT A FELONY OFFENSE FOR CERTAIN HIGH-RISK SEXUAL OFFENDERS TO RESIDE OR WORK WITHIN CERTAIN GEOGRAPHICALLY RESTRICTED AREAS; PROVIDING EXCEPTIONS; PROVIDING A PENALTY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 46-18-255 AND 46-23-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Geographic restrictions applicable to high-risk sexual offenders. (1) A high-risk sexual offender as provided in this section may not:

(a) establish a residence within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors. This subsection (1)(a) does not apply if the residence was established on or before [the effective date of this act].

(b) establish a residence or any other living accommodation in a place where a minor resides, except that the offender may reside with a minor if the offender is the parent, grandparent, or stepparent of the minor unless:

(i) the offender's parental rights were terminated or are in the process of being terminated as provided by law;

(ii) the offender was convicted of a sexual offense in which any of the offender's minor children, grandchildren, or stepchildren were the victim; or

(iii) the offender was convicted of a sexual offense in which a minor was the victim and the minor resided with the offender at the time of the offense;

(c) knowingly make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim or a member of the victim's immediate family;

(d) knowingly come within 300 feet of a former victim of the offender without the prior written permission of the victim or the victim's legal guardian;

(e) accept, maintain, or carry on regular employment at or within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors.

(2) A high-risk sexual offender who knowingly violates a provision of this section is guilty of a felony and upon conviction shall be punished as provided in 46-18-213.

(3) For high-risk sexual offenders who are no longer under the supervision of the department of corrections, the residential and geographic restrictions provided in subsections (1)(a) and (1)(e) do not apply if the high-risk sexual offender possesses an approved safety plan from a sexual offender evaluator to mitigate the risk of reoffending and protect public safety. The safety plan must be reevaluated annually by a sexual offender evaluator to ensure any conditions or requirements are adequate and protect public safety.

(4) This section does not apply to offenders who are placed in a facility in operation by the department of corrections, the department of public health and human services, or a contractor with either department before October 1, 2015. The department of corrections and the department of public health and human services shall adopt rules specifying the type of facility to which this section applies.

(5) The department of corrections and the department of public health and human services may also exempt from the requirements of this section offenders who are placed in a facility to be operated by either department or a contractor with either department beginning on or after October 1, 2015. The department of corrections and the department of public health and human services shall adopt rules specifying facilities to which this subsection applies. As part of the process of granting an exemption to a facility constructed or designated after October 1, 2015, the department of corrections and the department of public health and human services shall hold at least one public hearing in the community where the facility is to be located.

(6) As used in this section, the following definitions apply:

(a) "Day-care center" has the meaning provided in 52-2-703.

(b) "High-risk sexual offender" means a person 18 years of age or older who is designated as a sexually violent predator under 46-23-509 and has committed a sexual offense against a victim 12 years of age or younger.

(c) "Minor" means a person under 18 years of age.

(d) "Regular employment" means employment for which a sexual offender has a reasonable expectation of employment for longer than 90 days.

(e) "Sexual offense" has the meaning provided in 46-23-502.

Section 2. Section 46-18-255, MCA, is amended to read:

"46-18-255. Sentence upon conviction — restriction on employment and residency. (1) A judge sentencing a person upon conviction of a sexual or violent offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose upon the defendant reasonable employment or occupational prohibitions and restrictions designed to protect the class or

classes of persons containing the likely victims of further offenses by the defendant.

(2) In addition to any restriction on employment imposed under subsection (1), a judge sentencing a person convicted of a sexual offense involving a minor and designated as a level 3 offender under 46-23-509 shall, as a condition to probation, parole, or deferment or suspension of sentence, impose upon the defendant restrictions on the defendant's residency in the proximity of a private or public elementary or high school, preschool as defined in 20-5-402, licensed day-care center, church, or park maintained by a city, town, or county.

(3) Restrictions imposed pursuant to this section must be compatible with the restrictions provided for in [section 1]."

Section 3. Section 46-23-520, MCA, is amended to read:

"46-23-520. Sexual or violent offender community education curriculum. (1) The department of justice shall develop a statewide community education curriculum regarding release of sexual or violent offenders into a community.

(2) The curriculum developed under subsection (1) must contain information:

(a) for communities and neighborhoods regarding the provisions of this part as it relates to sexual or violent offenders, including the rights of residents of a community into which a sexual or violent offender is released and the duties and roles under this part of the department, law enforcement agencies, and the offender; ~~and~~

(b) for families and children regarding personal safety, including potential warning signs that may help to avoid victimization*; and*

(c) for communities, neighborhoods, families, and children regarding the restrictions imposed by [section 1].

(3) The curriculum developed under this section must be made available to law enforcement agencies, school districts, local governments, and other entities determined by the department of justice to be in a position to educate the public on the subject of the release of a sexual or violent offender into a community. The curriculum may be disseminated by any appropriate means, written or electronic, including by the internet."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, part 5, and the provisions of Title 45, chapter 5, part 5, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. Except as provided in [section 1(1)(a)], [this act] applies retroactively, within the meaning of 1-2-109, to sexually violent predators who have been convicted of a sexual offense against a victim 12 years of age or younger on or before [the effective date of this act].

Approved May 5, 2015

CHAPTER NO. 413

[HB 226]

AN ACT REVISING LAWS RELATED TO FUNDING OF OIL AND GAS RECLAMATION PROJECTS; DECREASING FUNDS FOR RECLAMATION AND DEVELOPMENT GRANTS; INCREASING FUNDS FOR OIL AND GAS

DAMAGE MITIGATION; AMENDING SECTIONS 15-38-202, 82-11-161, AND 90-2-1113, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund — expenditure — minimum balance. (1) All money paid into the resource indemnity trust fund must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches $100 million. After the fund balance reaches $100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than $100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) ~~$3.5 million~~ *$3.2 million* to be deposited in the natural resources projects state special revenue account, established in 15-38-302, for the purpose of making grants;

(ii) $300,000 to be deposited in the ground water assessment account established in 85-2-905;

(iii) $500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified projects.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) ~~an amount not to exceed $50,000~~ *$650,000* to be deposited in the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161;

(ii) $500,000 to be deposited in the water storage state special revenue account created by 85-1-631; and

(iii) $175,000 to be deposited in the environmental contingency account established in 75-1-1101.

(c) The remainder of the interest income is allocated as follows:

(i) Sixty-five percent of the interest income of the resource indemnity trust fund must be allocated to the natural resources operations state special revenue account established in 15-38-301.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed

during the legislative appropriation process or otherwise during a legislative session."

Section 2. Section 82-11-161, MCA, is amended to read:

"82-11-161. (Temporary) Oil and gas production damage mitigation account — statutory appropriation. (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) *(a)* At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account ~~$50,000~~ *$650,000* from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

~~(a)~~*(i)* equals or exceeds ~~$200,000~~ *$1 million*, no allocation will be made; or

~~(b)~~*(ii)* is less than ~~$200,000~~ *$1 million*, then an amount less than or equal to the difference between the unobligated cash balance and ~~$200,000~~ *$1 million*, but not more than ~~$50,000~~ *$650,000*, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(b) If $650,000 is not allocated pursuant to subsection (2)(a), the remainder must be deposited in the natural resources projects state special revenue account established in 15-38-302 for the purpose of making grants.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 82-11-136.

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. The responsible person shall, however, pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

82-11-161. (Effective on occurrence of contingency) Oil and gas production damage mitigation account — statutory appropriation. (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) *(a)* At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account ~~$50,000~~ *$650,000* from the interest income of the resource indemnity trust fund, except that if at the

beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

~~(a)~~*(i)* equals or exceeds ~~$200,000~~ *$1 million*, no allocation will be made; or

~~(b)~~*(ii)* is less than ~~$200,000~~ *$1 million*, then an amount less than or equal to the difference between the unobligated cash balance and ~~$200,000~~ *$1 million*, but not more than ~~$50,000~~ *$650,000*, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(b) If $650,000 is not allocated pursuant to subsection (2)(a), the remainder must be deposited in the natural resources projects state special revenue account established in 15-38-302 for the purpose of making grants.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 82-11-136(1).

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. However, the responsible person shall pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account."

Section 3. Section 90-2-1113, MCA, is amended to read:

"90-2-1113. Evaluation criteria — priority. (1) Except as provided in ~~subsections~~ *subsection* (2) ~~and (3)~~, the department shall consider the following criteria in evaluating eligible applications and in selecting projects to be recommended to the governor for funding:

(a) the degree to which the project will provide benefits in its eligibility category or categories;

(b) the degree to which the project will provide public benefits;

(c) the degree to which the project will promote, enhance, or advance the policies and purposes of the reclamation and development grants program;

(d) the degree to which the project will provide for the conservation of natural resources;

(e) the degree of need and urgency for the project;

(f) the extent to which the project sponsor or local entity is contributing to the costs of the project or is generating additional nonstate funds;

(g) the degree to which jobs are created for persons who need job training, receive public assistance, or are chronically unemployed; and

(h) any other criteria that the department considers necessary to carry out the policies and purposes of the reclamation and development grants program.

~~(2) (a) Subject to the conditions of this part, the department shall give priority to grant requests, not to exceed a total of $600,000 for the biennium, from the board of oil and gas conservation beginning on July 1, 2015. The board of oil and gas conservation shall use a grant that received priority under this subsection (2)(a) for oil and gas reclamation projects. The board may use a maximum of 2.5% of the amount of a grant for administrative costs associated with implementing the projects covered in the grant.~~

~~(b) Any unobligated fund balance of a grant that received priority under subsection (2)(a) remaining at the end of the current biennium must be included as part of the $600,000 limitation for the next biennium.~~

~~(c) The priority given to the board of oil and gas conservation under subsection (2)(a) does not preclude the board of oil and gas conservation from submitting additional grant requests. The department shall evaluate additional grant requests from the board of oil and gas conservation in accordance with the provisions of subsection (1).~~

~~(3)~~*(2)* Subject to the conditions of this part, the department shall give priority to grant requests not to exceed a total of $800,000 for the biennium for abandoned mine reclamation projects. A grant may not be used for personnel costs or general operating expenses."

Section 4. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 414

[HB 228]

AN ACT TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2017; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% ~~through September 30, 2013, and beginning October 1, 2013, the amount of 2.9%~~ *through June 30, 2017, and beginning July 1, 2017, the amount of 2.9%* must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) $65,000 to the cooperative development center;

(ii) $625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) $1.275 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) $125,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $425,000 for certified regional development corporations;

(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement; and

(v) except as provided in subsection (9)(c), up to $21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection (9)(b)(v) subject to legislative approval. (Terminates June 30, 2019—secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), $250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection (9)(c), up to $24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."

Section 2. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved, and if House Bill No. 2 appropriates an amount equal to or greater than $3,514,423 for the fiscal year beginning July 1, 2015, or July 1, 2016, or the biennium ending June 30, 2017, to the coal board for the purposes provided for in 90-6-1001(2), then [this act] is void.

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 415

[HB 270]

AN ACT PROVIDING FOR A COMPLIANCE SCHEDULE TO MEET THE NUTRIENT LIMITS IN A MODIFIED DISCHARGE PERMIT AFTER AN OBJECTION BY THE ENVIRONMENTAL PROTECTION AGENCY; AND PROVIDING FOR DEPARTMENT REVIEW OF THE COMPLIANCE SCHEDULE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Compliance schedule for base numeric nutrient standards. If the United States environmental protection agency vetoes or objects to a discharge permit because of a nutrient standards variance provided for in 75-5-313 and the environmental protection agency determines that no variance may be granted for the permit, the department shall modify the discharge permit to contain nutrient limits based on the base numeric nutrient standards and a compliance schedule for meeting these nutrient limits. The compliance schedule may not extend for more than 20 years. The department may review and modify the compliance schedule every 3 years.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 1].

Approved May 5, 2015

CHAPTER NO. 416

[HB 300]

AN ACT CREATING THE SNOWMOBILE TRAIL PASS; PROVIDING FEES AND PENALTIES; DEFINING TERMS; REORGANIZING SECTIONS; AMENDING SECTIONS 15-1-122, 23-2-601, 23-2-614, 23-2-644, AND 23-2-657, MCA; AND REPEALING SECTION 23-2-652, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Snowmobile trail pass — fees — penalties. (1) Except as provided in subsection (4), to be eligible to operate a snowmobile or use motorized equipment or mechanical transport in snowmobile areas groomed with a grant or funding assistance awarded by the department, a person shall first purchase a snowmobile trail pass for $18.

(2) The trail pass is valid for 3 years from the date of purchase and must be affixed in a conspicuous place to each snowmobile, motorized equipment, or mechanical transport used. A trail pass is not transferrable between a snowmobile, motorized equipment, or mechanical transport.

(3) Application for the issuance of the trail pass must be made at locations and upon forms prescribed by the department.

(4) A person renting a snowmobile registered pursuant to 61-3-321(11)(b) is not required to purchase a snowmobile trail pass but shall carry proof of rental if operating a snowmobile in a snowmobile area that otherwise requires a trail pass pursuant to subsection (1).

(5) Money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) $2 must be remitted to the vendor who sold the trail pass if the vendor is not the department;

(b) $1 must be used for the enforcement of snowmobile laws pursuant to this part; and

(c) the remainder must be used by the department to award grants or funding assistance to snowmobile area operators for the grooming of snowmobile areas.

(6) The failure to affix the trail pass as required by this section or the making of false statements in obtaining the trail pass is a misdemeanor, punishable by a fine of not less than $25 or more than $100.

Section 2. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of $59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *Title 23, chapter 2, part 6,* and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) The amount of $200,000 is transferred from the state general fund to the livestock loss reduction and mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Section 3. Section 23-2-601, MCA, is amended to read:

"23-2-601. Definition of terms. As used in ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part*, unless the context requires otherwise, the following definitions apply:

(1) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for the snowmobile to be validly registered.

(2) "Certificate of title" means the document issued by the department of justice as prima facie evidence of ownership.

(3) "dbA" means sound pressure level measured on the "A" weight scale in decibels.

(4) "Department" means the department of fish, wildlife, and parks of the state of Montana.

(5) "Mechanical transport" means any contrivance for moving a person over land that has moving parts and provides a mechanical advantage to the user.

~~(5)~~*(6)* "New snowmobile" means a snowmobile that has not been previously sold to an owner.

~~(6)~~*(7)* "Operator" includes each person who operates or is in actual physical control of the operation of a snowmobile.

~~(7)~~*(8)* "Owner" includes each person, other than a lienholder or person having a security interest in a snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the snowmobile.

~~(8)~~*(9)* "Person" means an individual, partnership, association, corporation, and any other body or group of persons, regardless of the degree of formal organization.

~~(9)~~*(10)* "Registration decal" means an adhesive sticker produced and issued by the department of justice, its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.

~~(10)~~*(11)* "Roadway" means only those portions of a highway, road, or street improved, designed, or ordinarily used for travel or parking of motor vehicles.

~~(11)~~*(12)* "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, designed ~~primarily~~ for travel on snow or ice, that may be steered by skis or runners and that is not otherwise registered or licensed under the laws of the state of Montana.

(13) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the operation of snowmobiles.

(14) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons who offer snowmobile equipment for rent, and private trail grooming contractors.

(15) "Snowmobiler" means any person operating or riding a snowmobile."

Section 4. Section 23-2-614, MCA, is amended to read:

"23-2-614. Exemptions. (1) (a) The provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* with respect to registration, registration decals, certificates of title, ~~and~~ certificates of ownership*, and snowmobile trail passes* do not apply to snowmobiles owned or used by the United States or another state or any agency or political subdivision of the United States or another state.

(b) Snowmobiles owned by the state of Montana or any agency or political subdivision of this state are exempt only from the payment of fees and must otherwise comply with all the requirements of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part*.

(2) The provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* with respect to registration, registration decals, certificates of title, ~~and~~ certificates of ownership*, and snowmobile trail passes* do not apply to unregistered snowmobiles owned by nonresidents of Montana who either:

(a) display visual proof that a nonresident temporary-use snowmobile permit has been purchased; or

(b) use the snowmobile only in races and for not more than 30 days in the state. "Race" means an organized competition on a predetermined course that is run according to accepted rules."

Section 5. Section 23-2-644, MCA, is amended to read:

"23-2-644. Deposit of funds from fines and forfeitures. All fines and forfeitures collected under ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through~~

~~23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* relating to snowmobiles, except those collected by a justice's court, must be transmitted to the state, as provided in 15-1-504, for deposit in the state general fund."

Section 6. Section 23-2-657, MCA, is amended to read:

"23-2-657. Environmental review compliance — exemption. (1) Except as provided in subsection (2), the department of fish, wildlife, and parks shall comply with the provisions of Title 75, chapter 1, parts 1 and 2, when:

(a) acting as a snowmobile area operator pursuant to ~~23-2-652 through 23-2-655~~ *this part*; or

(b) awarding a grant or other funding assistance to a snowmobile area operator.

(2) The department of fish, wildlife, and parks is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when taking actions as a snowmobile area operator pursuant to ~~23-2-652 through 23-2-655~~ *this part* or when awarding a grant or other funding assistance to a snowmobile area operator if the action or award has been previously subject to environmental review under Title 75, chapter 1, parts 1 and 2, and there is no proposed change to the action or the use of the award."

Section 7. Repealer. The following section of the Montana Code Annotated is repealed:

23-2-652. Definitions.

Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 6, and the provisions of Title 23, chapter 2, part 6, apply to [section 1].

Approved May 5, 2015

CHAPTER NO. 417

[HB 306]

AN ACT REMOVING CERTAIN LIMITATIONS ON UNEMPLOYMENT BENEFITS FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; AMENDING SECTION 39-51-2111, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-51-2111, MCA, is amended to read:

"39-51-2111. Unemployment benefits for victims of domestic violence, sexual assault, or stalking. (1) (a) An individual who is otherwise eligible for benefits may not be denied benefits because the individual left work or was discharged because of circumstances resulting from the individual or a child of the individual being a victim of domestic violence, a sexual assault, or stalking or the individual left work or was discharged because of an attempt on the individual's part to protect the individual or the individual's child from domestic abuse, a sexual assault, or stalking.

(b) The account of an employer with an experience rating as provided in 39-51-1213 may not be charged for the payment of benefits to an individual who left work or was discharged because of circumstances resulting from domestic violence, a sexual assault, or stalking as provided for in subsection (1)(a).

~~(c) An individual may not receive more than 10 weeks of unemployment benefits for the 12-month period after filing a claim under the provisions of this section. The provisions of this section do not affect the rights of an individual to receive unemployment insurance benefits that the individual is entitled to under other provisions of state law.~~

(c) An individual may not receive more than 28 weeks of unemployment benefits for the 12-month period after filing a claim under the provisions of this section. The provisions of this section do not affect the rights of an individual to receive unemployment insurance benefits that the individual is entitled to under other provisions of state law.

(2) For the purposes of subsection (1), an individual must be treated as being a victim of domestic violence, a sexual assault, or stalking if the individual provides one or more of the following:

(a) an order of protection or other documentation of equitable relief issued by a court of competent jurisdiction;

(b) a police record documenting the domestic violence, sexual assault, or stalking;

(c) medical documentation of domestic violence or a sexual assault; or

(d) other documentation or certification of domestic violence, a sexual assault, or stalking provided by a social worker, clergy member, shelter worker, or professional person, as defined in 53-21-102, who has assisted the individual in dealing with domestic violence, a sexual assault, or stalking.

(3) An individual who is otherwise eligible for benefits under this section becomes ineligible if the individual remains in or returns to the abusive situation that caused the individual to leave work or be discharged.

(4) The department shall provide a report to the legislature, as provided in 5-11-210, regarding the benefits applied for and granted under this section, including a summary of the demographics of applicants for and recipients of the benefits and the average and total cost of benefits provided.

(5) For the purposes of this section:

(a) "domestic violence" means the physical, mental, or emotional abuse of an individual or the individual's child by a person with whom that individual or the individual's child lives or has recently lived;

(b) "sexual assault" means sexual assault as described in 45-5-502, sexual intercourse without consent as described in 45-5-503, incest as described in 45-5-507, or sexual abuse of children as described in 45-5-625; and

(c) "stalking" has the meaning provided in 45-5-220."

Section 2. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 418

[HB 359]

AN ACT ADJUSTING INFLATION FACTOR CALCULATION FOR INDIVIDUAL INCOME TAX; PROVIDING A TRANSITION SECTION FOR TAX YEAR 2016; AMENDING SECTIONS 15-30-2101, 15-30-2103, 15-30-2110, 15-30-2114, 15-30-2132, AND 15-30-2602, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2101, MCA, is amended to read:

"15-30-2101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

(a) that is treated as an association for federal income tax purposes;

(b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and

(c) that is not a disregarded entity.

(4) "Department" means the department of revenue.

(5) "Disregarded entity" means a business entity:

(a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

(6) "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

(9) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the *previous* tax year by the consumer price index for June ~~2005~~ *2015*.

(12) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(14) "Knowingly" is as defined in 45-2-101.

(15) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

(16) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

(17) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

(a) a resident taxpayer on a lottery ticket; or

(b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(18) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical

location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and

(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (18)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(20) "Nonresident" means a natural person who is not a resident.

(21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(24) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(25) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(26) "Purposely" is as defined in 45-2-101.

(27) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(28) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(29) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(30) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(31) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(33) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

Section 2. Section 15-30-2103, MCA, is amended to read:

"15-30-2103. Rate of tax. (1) There must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

(a) on the first ~~$2,300~~ *$2,900* of taxable income or any part of that income, 1%;

(b) on the next ~~$1,800~~ *$2,200* of taxable income or any part of that income, 2%;

(c) on the next ~~$2,100~~ *$2,700* of taxable income or any part of that income, 3%;

(d) on the next ~~$2,200~~ *$2,700* of taxable income or any part of that income, 4%;

(e) on the next ~~$2,400~~ *$3,000* of taxable income or any part of that income, 5%;

(f) on the next ~~$3,100~~ *$3,900* of taxable income or any part of that income, 6%;

(g) on any taxable income in excess of ~~$13,900~~ *$17,400* or any part of that income, 6.9%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for ~~that~~ *the following* tax year and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that *following* tax year and must be used as the basis for imposition of the tax in subsection (1) of this section."

Section 3. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection (13), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first ~~$3,600~~ *$4,070* of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of ~~$30,000~~ *$33,910* as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of ~~$30,000~~ *$33,910* as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction

must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross

income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed $5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for ~~that~~ *the following* tax year, ~~but using the year 2009 consumer price index, and rounding the results~~ *rounded* to the nearest $10. The resulting amounts are effective for that *following* tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on

occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 4. Section 15-30-2114, MCA, is amended to read:

"15-30-2114. Exemptions — inflation adjustment. (1) Subject to subsection (6), an individual is allowed as deductions in computing taxable income the exemptions provided by subsections (2) through (5).

(2) (a) An exemption of ~~$1,900~~ *$2,380* is allowed for all taxpayers.

(b) An additional exemption of ~~$1,900~~ *$2,380* is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~$1,900~~ *$2,380* is allowed for the taxpayer if the taxpayer has attained the age of 65 before the close of the taxpayer's tax year.

(b) An additional exemption of ~~$1,900~~ *$2,380* is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the tax year and, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of ~~$1,900~~ *$2,380* is allowed for the taxpayer if the taxpayer is blind at the close of the taxpayer's tax year.

(b) An additional exemption of ~~$1,900~~ *$2,380* is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind must be made as of the close of the tax year of the taxpayer, except that if the spouse dies during the tax year, the determination must be made as of the time of death.

(c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of ~~$1,900~~ *$2,380* is allowed for each dependent:

(i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than or equal to the exemption amount provided in subsection (2)(a); or

(ii) who is a qualifying child as defined in section 152 of the Internal Revenue Code, 26 U.S.C. 152, including a student as defined in that section.

(b) An exemption is not allowed under this subsection for a dependent who has made a joint return with the dependent's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer begins.

(6) ~~The department, by~~ *By* November 1 of each year, *the department* shall multiply all the exemptions provided in this section by the inflation factor for ~~that~~ *the following* tax year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that *following* tax year and must be used in calculating the tax imposed in 15-30-2103."

Section 5. Section 15-30-2132, MCA, is amended to read:

"15-30-2132. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under 15-30-2131. The minimum standard deduction is ~~$1,580~~ *$1,980*, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of ~~$3,560~~ *$4,460*, as adjusted under the provisions of subsection (2). However, in the case of a single joint return of husband and wife or in the case of a single individual who qualifies to file as a head of household on the federal income tax return, the minimum standard deduction is twice the amount of the minimum standard deduction for a single return, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of twice the amount of the maximum standard deduction for a single return, as adjusted under the provisions of subsection (2). The standard deduction may not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married must be made as of the last day of the tax year unless one of the spouses dies during the tax year, in which case the determination must be made as of the date of death.

(2) By November 1 of each year, the department shall multiply both the minimum and the maximum standard deduction for single returns by the inflation factor for ~~that~~ *the following* tax year and round the product to the nearest $10. The resulting adjusted deductions are effective for that *following* tax year and must be used in calculating the tax imposed in 15-30-2103."

Section 6. Section 15-30-2602, MCA, is amended to read:

"15-30-2602. Returns and payment of tax — penalty and interest — refunds — credits — inflation adjustment. (1) For both resident and nonresident taxpayers, each ~~single~~ individual ~~and~~ *or* each married ~~individual~~ *couple* not filing a joint return ~~with a spouse~~ and having a gross income for the tax year of more than ~~$3,560~~ *the maximum standard deduction for that filing status*, as ~~adjusted under the provisions of subsection (6), and married individuals not filing separate returns and having a combined gross income for the tax year of more than $7,120, as adjusted under the provisions of subsection (6)~~ *determined in 15-30-2132*, are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross income amounts referred to in this subsection (1) must be increased by ~~$1,900, as adjusted under~~ the *personal exemption allowance determined in* ~~provisions of 15-30-2114(6)~~ *15-30-2114*, for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).

(2) In accordance with instructions set forth by the department, each taxpayer who is married and living with a husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with the husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax must be computed on the aggregate taxable income and, subject to 15-30-2646, the liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department consents.

(3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and 15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return provided for in 15-30-2512. However, the tax computed must be greater by $1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than $1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

(5) If the department determines that the amount of tax due is greater than the amount of tax computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

~~(6) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file a return.~~

~~(7)~~*(6)* Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the adjusted base year structure for that tax year."

Section 7. Transition. (1) The bracket amounts in 15-30-2103(1) as amended by [section 2 or 8] are not subject to an inflation factor increase for the tax year ending December 31, 2016.

(2) The amount of pension and annuity income in 15-30-2110(2)(c)(i) as amended by [section 3] and the federal adjusted gross income amounts in 15-30-2110(2)(c)(ii) as amended by [section 3] are not subject to an inflation factor increase for the tax year ending December 31, 2016.

(3) The exemption amounts in 15-30-2114(2)(a), (2)(b), (3)(a), (3)(b), (4)(a), (4)(b), and (5)(a) as amended by [section 4] are not subject to an inflation factor increase for the tax year ending December 31, 2016.

(4) The minimum and maximum standard deduction amounts as amended in 15-30-2132(1) as amended by [section 5] are not subject to an inflation factor increase for the tax year ending December 31, 2016.

Section 8. Coordination instruction. If both Senate Bill No. 200 and [this act] are passed and approved and if both contain a section that amends 15-30-2103, then the sections amending 15-30-2103 are void and 15-30-2103 must be amended as follows:

"15-30-2103. Rate of tax. (1) There must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

(a) on the first ~~$2,300~~ *$3,000* of taxable income or any part of that income, ~~1%~~ *0.9%*;

(b) on the next ~~$1,800~~ *$3,000* of taxable income or any part of that income, ~~2%~~ *1.9%*;

(c) on the next ~~$2,100~~ *$3,000* of taxable income or any part of that income, ~~3%~~ *2.8%*;

(d) on the next ~~$2,200~~ *$2,500* of taxable income or any part of that income, ~~4%~~ *3.8%*;

(e) on the next ~~$2,400~~ *$3,000* of taxable income or any part of that income, ~~5%~~ *4.8%*;

(f) on the next ~~$3,100~~ *$3,500* of taxable income or any part of that income, ~~6%~~ *5.8%*;

(g) on any taxable income in excess of ~~$13,900~~ *$18,000* or any part of that income, ~~6.9%~~ *6.7%*.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for ~~that~~ *the following* tax year and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that *following* tax year and must be used as the basis for imposition of the tax in subsection (1) of this section."

Section 9. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Approved May 5, 2015

CHAPTER NO. 419

[HB 403]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2017; PROVIDING FOR A TRANSFER OF FUNDS; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [sections 1 through 7], unless otherwise stated, the following definitions apply:

(1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and university funds.

(2) "Capital project" means the acquisition of land or improvements or the planning, capital construction, environmental cleanup, renovation, furnishing, or major repair projects authorized in [sections 1 through 7].

(3) "LRBP" means the long-range building program account in the capital projects fund type provided for in 17-7-205.

(4) "SBECP funds" means funds from the state building energy conservation program account in the capital projects fund type.

Section 2. Capital projects appropriations and authorizations. The following money is appropriated to the department of administration for the indicated capital projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

DEPARTMENT OF ADMINISTRATION

Fire Protection Measures, Capitol Complex

300,000 (State Special Revenue) 300,000 (Total)

State special revenue funds consist of general services division internal service funds.

Elevator Modifications for Complex Buildings

700,000 (State Special Revenue) 700,000 (Total)

State special revenue funds consist of general services division internal service funds.

Flooring Replacement, Capitol Complex
500,000 (State Special Revenue) 500,000 (Total)
State special revenue funds consist of general services division internal service funds.
Infrastructure Repairs, Capitol Complex
2,500,000 (State Special Revenue) 2,500,000 (Total)
State special revenue funds consist of general services division internal service funds.
Deferred Maintenance and Repairs, Old Governor's Mansion
200,000 (LRBP) 200,000 (Total)
Statewide Life Safety and Deferred Maintenance
2,800,000 (LRBP) 2,800,000 (Total)
Life Safety, Deferred Maintenance, and Energy Improvements (MSP, MWP, YSD)
2,000,000 (LRBP) 2,000,000 (Total)
Statewide Roof Repairs and Replacement
1,950,000 (LRBP) 1,950,000 (Total)
SCHOOL FOR THE DEAF AND BLIND
Miscellaneous Improvements
125,000 (LRBP) 125,000 (Total)
DEPARTMENT OF COMMERCE
Historic Building Maintenance
400,000 (LRBP) 400,000 (Total)
DEPARTMENT OF MILITARY AFFAIRS
Firing Range Cleanup
250,000 (LRBP)
250,000 (Federal Special Revenue) 500,000 (Total)
GFAFRC USAR Mechanical System Corrections
450,000 (Federal Special Revenue) 450,000 (Total)
CSMS Sandblast Booth
1,500,000 (Federal Special Revenue) 1,500,000 (Total)
VA Cemetery Improvements
2,000,000 (Federal Special Revenue) 2,000,000 (Total)
Improvements at the Montana Military Museum
65,000 (Authority Only) 65,000 (Total)
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Replace Boiler, MVH
331,500 (LRBP) 331,500 (Total)
DEPARTMENT OF TRANSPORTATION
Equipment Storage Buildings
4,300,000 (State Special Revenue) 4,300,000 (Total)
MONTANA UNIVERSITY SYSTEM
MT Ag Experiment Station Projects - Phase 1
2,480,000 (LRBP) 2,480,000 (Total)
MUS Life Safety, Deferred Maintenance
4,500,000 (LRBP) 4,500,000 (Total)
Bitterroot College Facility
4,200,000 (Authority Only) 4,200,000 (Total)
New Engineering Building - MSU-Bozeman
60,000,000 (Authority Only) 60,000,000 (Total)
Land Acquisition - Great Falls College-MSU
750,000 (Auxiliary Funds) 750,000 (Total)

Montana State University-Northern, Automotive Technology Center

1,000,000 (LRBP)	
1,000,000 (Authority Only)	2,000,000 (Total)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Aircraft Hanger, Kalispell

190,000 (Authority Only)	190,000 (Total)

Section 3. Capital improvements. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities, excluding the acquisition of land. Funds not requiring legislative appropriation are included for the purpose of authorization:

Migratory Bird Program

845,000 (State Special Revenue)	845,000 (Total)

Parks Program

2,766,800 (State Special Revenue)	
1,300,000 (Federal Special Revenue)	4,066,800 (Total)

Future Fisheries

1,277,000 (State Special Revenue)	1,277,000 (Total)

Hatchery Maintenance

600,000 (State Special Revenue)	600,000 (Total)

Sekokini Springs Hatchery Rearing Ponds

400,000 (Federal Special Revenue)	400,000 (Total)

FAS Site Protection

847,200 (State Special Revenue)	
600,000 (Federal Special Revenue)	1,447,200 (Total)

Upland Game Bird Program

849,000 (State Special Revenue)	849,000 (Total)

Grant Programs

139,000 (State Special Revenue)	
3,750,000 (Federal Special Revenue)	3,889,000 (Total)

Wildlife Habitat Maintenance

1,234,000 (State Special Revenue)	1,234,000 (Total)

Dam Maintenance

50,000 (State Special Revenue)	50,000 (Total)

Community Fishing Ponds

50,000 (State Special Revenue)	50,000 (Total)

Forest Management

320,000 (State Special Revenue)	320,000 (Total)

(2) Authority is being granted to the Montana university system in the amount of $6 million for the purpose of making capital improvements to campus facilities. Authority-only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the Montana university system from nonstate sources:

General Spending Authority MUS

6,000,000 (Authority Only)	6,000,000 (Total)

(3) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new

improvements constructed with these funds must be paid by the department of military affairs from nonstate sources:

Federal Spending Authority

3,000,000 (Federal Special Revenue)	3,000,000 (Total)

(4) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements as indicated:

Statewide Maintenance, Repair, and Small Projects

2,500,000 (State Special Revenue)	2,500,000 (Total)

(5) The following money is appropriated for the indicated capital projects to the department of environmental quality from state building energy conservation funds:

Energy Improvements - Statewide

2,500,000 (State Special Revenue)	2,500,000 (Total)

State special revenue funds consist of SBECP funds.

(6) The following money is appropriated to the Montana historical society in the indicated amount for the purpose of a grant:

Capital Maintenance and Improvements at the Daly Mansion

100,000 (LRBP)	100,000 (Total)

The appropriation for capital improvements at the Daly mansion is a biennial appropriation for the biennium ending June 30, 2017, only. Any unobligated funds remaining on July 1, 2017, must revert to the long-range building program (LRBP) fund.

Section 4. Land access appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land leasing, easement purchase, or development agreements and may not be used to purchase land except in cases where the department is currently negotiating such purchase:

Habitat Montana

10,668,000 (State Special Revenue)	10,668,000 (Total)

Bighorn Sheep Habitat

460,000 (State Special Revenue)	460,000 (Total)

FAS Lease

245,000 (State Special Revenue)	
100,000 (Federal Special Revenue)	345,000 (Total).

Section 5. Planning and design. The department of administration may proceed with the planning and design of capital projects prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funding from another funding source.

Section 6. Capital projects — contingent funds. If a capital project is financed in whole or in part with appropriations contingent upon the receipt of funding from another funding source, the department of administration may not let the project for bid until the agency receiving funding has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [section 2] for that project; or

(2) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2017 biennium long-range building program presented to the 64th legislature.

Section 7. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [section 2] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

Section 8. Transfer of funds. In the biennium beginning July 1, 2015, the department of administration shall transfer the amount of $750,000 from the long-range building program account to the auxiliary funds of the Montana university system to be used for the sole purpose of land acquisition for Great Falls college-MSU.

Section 9. Legislative consent. The appropriations authorized in [sections 1 through 7] constitute legislative consent for the capital projects contained in [sections 1 through 7] within the meaning of 18-2-102.

Section 10. General fund transfer. The department of administration shall transfer $1,000,000 from the general fund to the long-range building program (LRBP) fund in the biennium beginning July 1, 2015.

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Contingent voidness. If Senate Bill No. 416 is passed and approved and provides for a $1,000,000 appropriation for the Montana state university-northern, automotive technology center, the LRBP funding for the project in [this act] and [section 10 of this act] are void.

Section 13. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 420

[HB 454]

AN ACT REVISING HOW A POLITICAL PARTY MAY SELECT COMMITTEE REPRESENTATIVES FOR ELECTION PRECINCTS; AND AMENDING SECTIONS 13-10-201, 13-10-211, 13-38-201, AND 13-38-202, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination — term limitations. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. Except for a candidate ~~who files~~ under 13-38-201*(4)*, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration for nomination must include an oath of the candidate that includes wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise in a court of law.

(5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(6) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(7) (a) Except as provided in 13-10-211 and subsection (7)(b) of this section, a candidate's declaration for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a candidate's declaration for nomination must be filed no sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

(8) A properly completed and signed declaration for nomination form may be sent by facsimile transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary of state.

(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:

(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

Section 2. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates. (1) Except as provided in subsection (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate ~~who files~~ under 13-38-201*(4)*, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

(a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been canceled as provided by law.

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A properly completed and signed declaration of intent may be provided to the election administrator or secretary of state:

(a) by facsimile transmission;

(b) in person;

(c) by mail; or

(d) by electronic mail.

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

(8) Except as provided in 13-38-201~~(5)~~*(4)(b)*, the requirements in subsection (1) do not apply if:

(a) an election is held;

(b) a person's name is written in on the ballot;

(c) the person is qualified for and seeks election to the office for which the person's name was written in; and

(d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

Section 3. Section 13-38-201, MCA, is amended to read:

"13-38-201. Election *or appointment* of committee representatives at primary — vacancies — tie votes. (1) ~~Except as provided in subsection (4), each~~ *Each* political party shall *appoint or* elect at each primary election one person of each sex to serve as committee representatives for each election precinct. The committee representatives must be residents and registered voters of the precinct.

~~(2) An elector may be placed in nomination for precinct committee representative by a declaration of nomination, signed by the elector, notarized, and filed in the office of the county election administrator within the time for filing declarations naming candidates for nomination at the regular biennial primary election.~~

~~(3) Except as provided in subsection (4), the names of candidates for precinct committee representative of each political party must appear on the party ticket in the same manner as other candidates and are voted for in the same manner as other candidates.~~

(2) If a political party chooses to appoint precinct committee representatives, the political party shall make the appointments as provided in the party's rules.

(3) If a political party chooses to elect precinct committee representatives, the party may:

(a) administer the election itself as provided in the party's rules; or

(b) elect precinct committee representatives in a primary election, subject to 13-10-209 and subsection (4).

(4) ~~If~~ *In a primary election for a precinct committee representative:*

(a) if the number of candidates nominated for a party's precinct committee representatives is less than or equal to the number of positions to be elected, the election administrator may give notice that a party's precinct committee election will not be held in that precinct.

~~(5)~~*(b)* ~~If~~ *if* a party precinct committee election is not held pursuant to subsection (4)*(a)*, the election administrator shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to the designated party.

~~(6)~~*(c)* ~~Write-in~~ *write-in* votes for *a* precinct committee ~~representatives~~ *representative* may be counted as specified in 13-15-206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by the deadline prescribed in 13-10-211(1).

~~(7)~~*(d)* ~~In~~ *in* the case of a tie vote for a precinct committee representative position, the county central committee shall determine a winner.

~~(8)~~*(5)* Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled by the party governing body as provided in its rules."

Section 4. Section 13-38-202, MCA, is amended to read:

"13-38-202. Committee representatives as party representatives — county and city central committees. (1) Each committee representative shall represent the representative's political party for the precinct in all ward or subdivision committees formed.

(2) The committee representatives in each precinct constitute the county central committee of the respective political parties.

(3) Committee representatives who reside within the limits of a city are ex officio the city central committee of their respective political parties and have the power to make their own rules not inconsistent with those of the county central committee. However, the county central committee has the power to fill vacancies in the city central committee.

(4) Each precinct committee representative serves a term of 2 years from the date of election *or appointment pursuant to 13-38-201*.

(5) If a vacancy occurs, the remaining members of the county committee may select a precinct resident to fill the vacancy."

Approved May 5, 2015

CHAPTER NO. 421

[HB 463]

AN ACT GENERALLY REVISING FORFEITURE LAWS; REQUIRING A CRIMINAL CONVICTION FOR FORFEITURE OF PROPERTY; REQUIRING NOTICE OF SEIZED PROPERTY; PROVIDING FOR A PRETRIAL HEARING TO DETERMINE THE VALIDITY OF THE SEIZURE; REQUIRING A HEARING UPON CRIMINAL CONVICTION TO DETERMINE WHETHER PROPERTY MUST BE FORFEITED; REQUIRING PROOF BY CLEAR AND CONVINCING EVIDENCE THAT SEIZED PROPERTY WAS USED IN CONNECTION WITH OR CONSTITUTES PROCEEDS FROM THE COMMISSION OF A CRIMINAL OFFENSE; PROVIDING EXCEPTIONS FOR INNOCENT OWNERS AND PERSONS WITH AN OWNERSHIP INTEREST IN SEIZED PROPERTY; APPLYING PRETRIAL HEARING AND INNOCENT OWNER PROVISIONS TO CRIMINAL FORFEITURE LAWS; CLARIFYING FORFEITURE PROCEEDINGS RELATED TO COMMONLY DOMESTICATED HOOFED ANIMALS AND MOTOR VEHICLES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PROVIDING DEFINITIONS; AMENDING SECTIONS 44-12-101, 44-12-102, 44-12-103, 44-12-205, 45-6-328, 45-9-206, AND 61-8-421, MCA; REPEALING SECTIONS 44-12-201, 44-12-202, 44-12-203, AND 44-12-204, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Forfeiture of property for commission of criminal offense. (1) Except for controlled substances as provided in 44-12-104, a court may not order forfeiture of real or personal property of any kind pursuant to this chapter, including money, vehicles and other conveyances, and tangible and intangible personal property, unless:

(a) the owner of the property has been convicted of a criminal offense;

(b) the criminal offense specifically provides for forfeiture of property upon conviction; and

(c) the property has been found by clear and convincing evidence to have been used in connection with or to constitute proceeds from the criminal offense.

(2) This section does not prohibit property from being forfeited pursuant to a plea agreement between the prosecutor and the defendant subject to notice to the court or the approval of the court.

(3) Subsection (1)(a) does not apply if the owner of the property dies, is deported, or is unknown or if the owner of the property flees after the prosecution is commenced and is not apprehended within 12 months after the prosecution is commenced. If the owner of the property appears or is apprehended within 12 months after the prosecution is commenced, the owner of the property shall pay a storage fee of $100 per month for each month the property is held.

Section 2. Notice of seized property — itemized receipt — charging document. (1) Upon seizure of property, a peace officer shall:

(a) provide an itemized receipt of seized property pursuant to 44-12-103; and

(b) notify all persons known to have an interest in the property in the same manner as provided in [section 4(2)].

(2) Property subject to forfeiture pursuant to 44-12-102 must be identified in the charging document filed by the prosecutor for the criminal offense providing for forfeiture of property upon conviction. The charging document must specify the time and place of the alleged violation, identify the property, and particularly describe the property's use in connection with the criminal offense.

Section 3. Pretrial hearing. (1) Following the seizure of property in a proceeding under this chapter, a defendant who has been charged with a criminal offense providing for forfeiture of property upon conviction or a person claiming an interest in the property allegedly used in or derived from the commission of a criminal offense may make a written request for a pretrial hearing to determine the validity of the seizure.

(2) The request for a hearing pursuant to this section must be filed with the court in which the criminal proceeding is pending within 15 days of receiving notice of the seized property pursuant to [section 2(1)(b)]. If more than one person receives notice pursuant to [section 2(1)(b)], the 15-day request period for a hearing begins from the date the last notice was received. The court shall hold a hearing on the request as soon as practicable but no later than 30 days after the request is filed.

(3) The claimant has the burden of demonstrating a lawful ownership interest or right of possession in the property.

(4) At least 10 days prior to a hearing on the request, a statement demonstrating probable cause for the seizure made pursuant to 44-12-103 must be filed with the court and provided to the claimant.

(5) The court shall order that the property be returned to the claimant if the court finds that:

(a) it is likely the final judgment in the criminal proceeding will result in the state being ordered to return the property;

(b) it is not reasonably necessary for the property to be held for investigatory reasons; or

(c) the property is the only reasonable means for the claimant to pay the costs of legal representation in the forfeiture or criminal proceeding. The court may order the return of a portion of the total amount of property seized sufficient to pay the costs of legal representation and may require an accounting of the remaining property.

(6) In lieu of ordering the return of the property, the court may order the law enforcement agency to provide security or other written assurances for satisfaction of any judgment that may be rendered in the forfeiture proceeding or criminal proceeding, including any damages sustained as a result of retaining the property.

Section 4. Forfeiture upon criminal conviction — hearing. (1) Upon conviction of a defendant for a criminal offense providing for forfeiture of property upon conviction and upon notice to all persons known to have an interest in the property pursuant to subsection (2), the court shall hold a hearing to determine whether the property must be forfeited pursuant to [section 1] and disposed of as provided in 44-12-205 and 44-12-206 or, in the case of forfeiture for theft of commonly domesticated hoofed animals or illegal branding or altering or obscuring a brand, 45-6-329. Unless the defendant requests separate proceedings, a proceeding for the criminal offense providing for forfeiture of property must be held in conjunction with a proceeding for the forfeiture of the property.

(2) Pursuant to subsection (1), a peace officer or an officer of the agency that seized the property shall notify all persons known to have an interest in the property by one of the following methods:

(a) for a person whose address is known, by personal service of a copy of the notice; or

(b) for a person whose address is unknown, by publication in one issue of a newspaper of general circulation in the county where the seizure occurred or, if there is no such newspaper, by publication in one issue of a newspaper of general circulation in an adjoining county, and by mailing a copy of the notice to the most recent address of the person having an ownership interest in the property, if any, shown in the records of the department of justice.

(3) To establish that the seized property is subject to forfeiture under this chapter, a peace officer or an officer of an agency that seizes any property other than controlled substances must establish by clear and convincing evidence that the property was used in connection with or constitutes proceeds from the commission of the criminal offense.

(4) Seized property shall not be subject to forfeiture if an owner can establish that the owner is an innocent owner as provided in [section 5].

(5) A bona fide security interest is not subject to forfeiture unless the person claiming a security interest had actual knowledge that the property was subject to forfeiture at the time that the property was seized under this chapter. A person claiming a security interest bears the burden of production and must establish the validity of the interest by clear and convincing evidence.

Section 5. Innocent owner — ownership interest in property subject to forfeiture. (1) The property of an innocent owner is not subject to forfeiture under [sections 1 through 4].

(2) A property owner or person with an ownership interest in property subject to forfeiture must be declared an innocent owner if:

(a) the property owner or person with an ownership interest in the property can establish a legal right, title, or interest in the seized property; and

(b) the state is unable to prove by clear and convincing evidence that the owner or person with an ownership interest in the property had actual knowledge of the crime associated with a forfeiture proceeding.

Section 6. Section 44-12-101, MCA, is amended to read:

"44-12-101. ~~Definition of controlled substance~~ *Definitions.* As used in this chapter, *the following definitions apply:*

(1) "Actual knowledge" means direct and clear awareness of information.

(2) "~~controlled~~ *"Controlled* substance" means any substance designated as a dangerous drug pursuant to Title 50, chapter 32, parts 1 and 2."

Section 7. Section 44-12-102, MCA, is amended to read:

"44-12-102. Things subject to forfeiture. (1) ~~The following are subject to forfeiture~~ *A court may order, as part of the sentence imposed upon conviction, that the following property be forfeited as provided in [sections 1 through 5]*:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9, except items used or intended for use in connection with quantities of marijuana in amounts less than 60 grams;

(c) except as provided in subsection (2)~~(d)~~, all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels, that are used or intended for use in any manner to facilitate the commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9, all proceeds traceable to an exchange, and all money, negotiable instruments, and securities used or intended to be used to facilitate a violation of Title 45, chapter 9;

(h) any personal property constituting or derived from proceeds obtained directly or indirectly from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison; and

(i) real property, including any right, title, and interest in any lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner or part to commit or facilitate the commission of or that is derived from or maintained by the proceeds resulting from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison. An owner's interest in real property is not subject to forfeit by reason of any act or omission unless it is proved that the act or omission was the owner's or was with the owner's actual knowledge*, as defined in 44-12-101,* or express consent.

(2) ~~(a) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Title 45, chapter 9.~~

~~(b) A conveyance is not subject to forfeiture under this section because of any act or omission established by the owner of the conveyance to have been committed or omitted without the owner's knowledge or consent.~~

~~(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to any violation of Title 45, chapter 9.~~

~~(d)~~ A conveyance or container is not subject to forfeiture under this section if it was used or intended for use in transporting less than 60 grams of marijuana, but this exception does not apply to synthetic cannabinoids listed as dangerous drugs in 50-32-222."

Section 8. Section 44-12-103, MCA, is amended to read:

"44-12-103. When property may be seized. (1) A peace officer who has probable cause to make an arrest for a violation of Title 45, chapter 9, probable cause to believe that a conveyance has been used or is intended to be used to unlawfully transport a controlled substance, or probable cause to believe that a conveyance has been used to keep, deposit, or conceal a controlled substance shall seize the conveyance used or intended to be used or any conveyance in which a controlled substance is unlawfully possessed by an occupant. A peace officer shall*:*

(a) provide an itemized receipt to the person in possession of the property or, if reasonably practicable, leave a receipt in the place where the property was found if no person is present; and

(b) immediately deliver a conveyance that the officer seizes to the offices of the officer's law enforcement agency, to be held as evidence until forfeiture is declared or release ordered.

(2) All property subject to forfeiture under 44-12-102 may be seized by a peace officer under a search warrant issued by a district court having jurisdiction over the property. Seizure without a warrant may be made if:

(a) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;

(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal proceeding or a forfeiture proceeding based on this chapter;

(c) the peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) the peace officer has probable cause to believe that the property was used or is intended to be used in violation of Title 45, chapter 9, or in violation of Title 45, chapter 10, part 1."

Section 9. Section 44-12-205, MCA, is amended to read:

"44-12-205. Disposition of property following hearing. (1) If the ~~court finds that the property was not used for the purpose charged or that the property listed in 44-12-102(1)(g) was used without the knowledge or consent of the owner, it~~ *provisions of [section 1] are not established or the property owner is an innocent owner as provided in [section 5], the court* shall order *that* the property *be* released to the owner of record as of the date of the seizure.

(2) If the ~~court finds that the property was used for the purpose charged and that the property listed in 44-12-102(1)(g) was used with the knowledge or consent of the owner~~ *provisions of [section 1] are established and the property owner is not an innocent owner as provided in [section 5]*, the property must be disposed of as follows:

(a) If proper proof of a claim is presented at the hearing by the holder of a security interest, the court shall order *that* the property *be* released to the holder of the security interest if the amount due to the holder is equal to or in excess of the value of the property as of the date of seizure because the purpose of this chapter is to forfeit only the right, title, or interest of the owner. If the amount due the holder of the security interest is less than the value of the property, the property, if it is sold, must be sold at public auction by the law enforcement agency that seized the property in the same manner provided by law for the sale of property under execution or the law enforcement agency may return the property to the holder of the security interest without proceeding with an auction. The property may not be sold to an officer or employee of the law enforcement agency that seized the property or to a person related to an officer or employee by blood or marriage.

(b) If a claimant does not exist and the confiscating agency wishes to retain the property for its official use, it may do so. If the property is not to be retained, it must be sold as provided in subsection (2)(a).

(c) If a claimant who has presented proper proof of a claim exists and the confiscating agency wishes to retain the property for its official use, it may do so if it compensates the claimant in the amount of the security interest outstanding at the time of the seizure.

(3) In making a disposition of property under this chapter, the court may take any action to protect the rights of innocent persons."

Section 10. Section 45-6-328, MCA, is amended to read:

"45-6-328. Forfeiture for theft of commonly domesticated hoofed animal or illegal branding or altering or obscuring of brand. (1) The following property is subject to criminal forfeiture under this section:

(a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(b) property used or intended for use as a container for property enumerated in subsection (1)(a);

(c) except as provided in subsection (2), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327;

(e) everything of value furnished or intended to be furnished in exchange for a commonly domesticated hoofed animal in violation of 45-6-301 or 45-6-327 and all proceeds traceable to the exchange;

(f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-6-301 or 45-6-327; and

(g) personal property constituting or derived from proceeds obtained directly or indirectly from theft of a commonly domesticated hoofed animal or from illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

(2) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purpose of theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

~~(3) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property in connection with the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.~~

~~(4)~~*(3)* Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for the theft of a commonly domesticated hoofed animal or for illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327 may seize a conveyance obtained with proceeds derived from the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or a release is ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;

(ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding based on Title 44, chapter 12, or this section;

(iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a peace officer has probable cause to believe that the property was used or is intended to be used during the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327.

~~(5)~~*(4)* A forfeiture proceeding under subsection (1) must be commenced within 45 days of the seizure of the property involved.

~~(6)~~*(5)* The procedure for forfeiture proceedings in ~~44-12-201 through 44-12-204 applies~~ *[sections 1 through 5] apply* to property seized pursuant to this section.

~~(7)~~*(6)* Upon conviction, the property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the provisions of 45-6-329."

Section 11. Section 45-9-206, MCA, is amended to read:

"45-9-206. Use or possession of property subject to criminal forfeiture — property subject to criminal forfeiture. (1) A person commits

the offense of use or possession of property subject to criminal forfeiture if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section. A person convicted of the offense of use or possession of property subject to criminal forfeiture shall be imprisoned in the state prison for a term not to exceed 10 years. Upon conviction, the property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the provisions of 44-12-205 and 44-12-206.

(2) A person charged with an offense pursuant to this section may request a pretrial forfeiture hearing pursuant to [section 3].

~~(2)~~*(3)* The following property is subject to criminal forfeiture under this section:

(a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting a dangerous drug in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(b) property used or intended for use as a container for property enumerated in subsection (2)(a);

(c) except as provided in subsection (3), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(e) (i) everything of value furnished or intended to be furnished in exchange for a dangerous drug in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and

(ii) all proceeds traceable to such an exchange;

(f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110;

(g) personal property constituting or derived from proceeds obtained directly or indirectly from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and

(h) real property, including any right, title, and interest in a lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to facilitate a violation of or that is derived from or maintained by proceeds resulting from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110. ~~An owner's interest in real property is not subject to criminal forfeiture by reason of an act or omission unless it is proved that the act or omission was the owner's or was with the owner's express consent.~~

~~(3) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance to violate or knowingly consented to its use for the purpose of~~

~~violating 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110.~~

~~(4) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property in connection with a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110.~~

~~(5)~~*(4)* Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110 may seize a conveyance obtained with proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency, to be held as evidence until a criminal forfeiture is declared or release ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;

(ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding based on this section or on Title 44, chapter 12;

(iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a peace officer has probable cause to believe that the property was used or is intended to be used in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy is a violation of 45-9-101, 45-9-103, or 45-9-110.

~~(6)~~*(5)* As used in this section, "dangerous drug" means a substance designated as a dangerous drug under Title 50, chapter 32, parts 1 and 2.

~~(7)~~*(6)* A prosecution under subsection (1) must be commenced within 45 days of the seizure of the property involved.

(7) A bona fide security interest is not subject to forfeiture unless the person claiming a security interest had actual knowledge, as defined in 44-12-101, that the property was subject to forfeiture at the time that the property was seized under this chapter. A person claiming a security interest bears the burden of production and must establish the validity of the interest by clear and convincing evidence.

(8) The property of an innocent owner is not subject to forfeiture under this section. A property owner or person with an ownership interest in property subject to forfeiture must be declared an innocent owner if:

(a) the property owner or person with an ownership interest in the property can establish a legal right, title, or interest in the seized property; and

(b) the state is unable to prove by clear and convincing evidence that the owner or person with an ownership interest in the property had actual

knowledge, as defined in 44-12-101, of the crime associated with a forfeiture proceeding."

Section 12. Section 61-8-421, MCA, is amended to read:

"61-8-421. Forfeiture procedure. (1) A motor vehicle forfeited under 61-8-733 must be seized by the arresting agency within 10 days after the conviction and disposed of as provided in Title 44, chapter 12, part 2. Except as provided in this section, the provisions of Title 44, chapter 12, part 2, apply to the extent applicable.

(2) Forfeiture proceedings under ~~44-12-201(1)~~ *[sections 1 through 5]* must be instituted by the arresting agency within 20 days after the seizure of the motor vehicle.

~~(3) For purposes of 44-12-203 and 44-12-204, there is a rebuttable presumption of forfeiture. The owner of the motor vehicle may rebut the presumption by proving a defense under 61-8-733(2) or by proving that the owner was not convicted of a second or subsequent offense under 61-8-401, 61-8-406, or 61-8-411. It is not a defense that the convicted person owns the motor vehicle jointly with another person.~~

~~(4)~~*(3)* (a) For purposes of 44-12-206, the proceeds of the sale of the motor vehicle must be distributed first to the holders of security interests who have presented proper proof of their claims, up to the amount of the interests or the amount received from the sale, whichever is less, and the remainder to the general fund of the arresting agency.

(b) A holder of a security interest may petition the sentencing court for transfer of title to the motor vehicle to the holder of the security interest if the secured interest is equal to or greater than the estimated value of the motor vehicle.

~~(5)~~*(4)* Actions the court may take under 44-12-205(3) to protect the rights of innocent persons include return of the motor vehicle without a sale to an owner who is unable to present an adequate defense under this section but is found by the court to be without fault."

Section 13. Repealer. The following sections of the Montana Code Annotated are repealed:

44-12-201. Petition to institute forfeiture proceedings — summons — service.

44-12-202. Answer to allegations concerning use of property.

44-12-203. Presumption — procedure following answer or expiration of time for answering.

44-12-204. Proof required or permitted at hearing.

Section 14. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 44, chapter 12, and the provisions of Title 44, chapter 12, apply to [sections 1 through 5].

Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Applicability. [This act] applies to forfeiture proceedings begun on or after [the effective date of this act].

Section 18. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 422

[HB 464]

AN ACT PROVIDING FOR A VOLUNTARY HIGH-PERFORMANCE BUILDING PROGRAM FOR EXISTING BUILDINGS WITHIN STATE AGENCIES AND THE MONTANA UNIVERSITY SYSTEM; PROVIDING FOR TRANSFER OF UTILITY FUNDS; PROVIDING FOR A STATE SPECIAL REVENUE ACCOUNT; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. High-performance program for operations and maintenance of existing buildings. (1) The department of administration, in collaboration with the Montana university system and other state agencies, shall develop a voluntary high-performance building program for the operation and maintenance of existing buildings. In developing this program, the department of administration shall consider:

(a) integrated design principles to optimize energy performance, enhance indoor environmental quality, and conserve natural resources;

(b) cost-effectiveness, including productivity, deferred maintenance, and operational considerations; and

(c) building functionality, durability, and maintenance.

(2) When economically justified, state agencies may elect to improve the cost-effectiveness of existing buildings by participating in the high-performance program for operations and maintenance of existing buildings established by the department of administration under this section.

(3) Prior to September 1 of each even-numbered year, the department of administration, in collaboration with the Montana university system, shall update the energy and telecommunications interim committee on the high-performance building program established in subsection (1). The report must include an overview of the state agencies and educational units participating in the program and an estimate of savings or actual savings in operations and maintenance resulting from participation in the program.

Section 2. Transfer of budgeted utility funds — special revenue account — university plant subfunds. (1) (a) For each fiscal year, each state agency, other than the university system, participating in the high-performance program for operations and maintenance of existing buildings created in [section 1] may transfer to the special revenue account established in subsection (1)(b) 75% of any amount remaining in the budgeted operating expenses for building maintenance. Only state funds may be transferred.

(b) The architecture and engineering division of the department of administration shall establish a special revenue account to receive transfers made pursuant to subsection (1)(a). Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of this part. All interest and income earned on money in the account must be deposited into the account.

(c) The division shall administer the special revenue account established in subsection (1)(b) to the credit of each participating agency for the purposes of subsection (3).

(2) The Montana university system may establish a subfund of the plant fund provided for in 17-2-102(4)(e) to receive the transfer made for each educational unit participating in the program established under [section 1]. At the end of each fiscal year, a participating educational unit may transfer to the unit's subfund 75% of the unit's unspent utility funds. All interest and income earned on the money in the subfund must remain in the subfund. The educational unit may use the money in the unit's subfund for the purposes described in subsection (3).

(3) The money in the special revenue account and in any university plant subfunds created pursuant to subsection (2) is designated for the purpose of financing high-performance operations and maintenance and achieving utility cost reductions.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; *[section 2];* 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.

10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 17, chapter 7, part 2, and the provisions of Title 17, chapter 7, part 2, apply to [sections 1 and 2].

Section 5. Termination. [This act] terminates June 30, 2021.

Approved May 5, 2015

CHAPTER NO. 423

[HB 487]

AN ACT CREATING A MONTANA HISTORICAL SOCIETY MEMBERSHIP AND A MONTANA ORIGINAL GOVERNOR'S MANSION SPECIAL REVENUE ACCOUNT; PROVIDING FOR STATUTORY APPROPRIATIONS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana historical society membership special revenue account — use — statutory appropriation. (1) There is a Montana historical society membership account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the account money received from the purchases of memberships to the Montana historical society.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the Montana historical society and may not be used for any purposes other than the improvement, development, and operation of the society.

Section 2. Montana original governor's mansion special revenue account — use — statutory appropriation. (1) There is a Montana original governor's mansion account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the account money allocated from tours of the mansion.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the Montana historical society and may not be used for any purposes other than the improvement, development, and operation of the Montana original governor's mansion.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; *[section 1]; [section 2];* 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the

inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 22, chapter 3, part 1, and the provisions of Title 22, chapter 3, part 1, apply to [sections 1 and 2].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Termination. [This act] terminates June 30, 2025.

Approved May 5, 2015

CHAPTER NO. 424

[HB 488]

AN ACT GENERALLY REVISING LAWS CONCERNING DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; ESTABLISHING A BLOOD-DRAW SEARCH WARRANT PROCESSING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR THE IMPOSITION OF A FINE UPON A PERSON'S REFUSAL TO SUBMIT TO A BLOOD-DRAW TEST; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT RULES FOR THE COLLECTION, ADMINISTRATION, AND ACCOUNTABILITY OF BLOOD-DRAW REFUSAL FINES; REVISING LAWS AND PENALTIES RELATED TO THE OFFENSE OF AGGRAVATED DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; INCREASING FINES FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; INCREASING FINES FOR THE OFFENSE OF DRIVING WITH EXCESSIVE ALCOHOL CONCENTRATION OR DELTA-9-TETRAHYDROCANNABINOL; REVISING LAWS AND PENALTIES RELATING TO THE OFFENSE OF FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REVISING PENALTIES AND SENTENCING PROVISIONS FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AMENDING SECTIONS 46-16-130, 61-5-208, 61-5-231, 61-8-401, 61-8-402, 61-8-403, 61-8-405, 61-8-408, 61-8-409, 61-8-421, 61-8-442, 61-8-465, 61-8-714, 61-8-722, 61-8-731, 61-8-732, 61-8-733, 61-8-734, AND 61-8-741, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Blood-draw search warrant processing account — source of funds — designated use. There is a blood-draw search warrant processing account in the state special revenue fund established pursuant to 17-2-102(1)(b). Money provided to the department of justice pursuant to 61-8-402(6) must be deposited in the account and may be used only for the purpose of providing forensic analysis of a driver's blood to determine the presence of alcohol or drugs.

Section 2. Section 46-16-130, MCA, is amended to read:

"46-16-130. Pretrial diversion. (1) (a) Prior to the filing of a charge, the prosecutor and a defendant who has counsel or who has voluntarily waived counsel may agree to the deferral of a prosecution for a specified period of time based on one or more of the following conditions:

(i) that the defendant may not commit any offense;

(ii) that the defendant may not engage in specified activities, conduct, and associations bearing a relationship to the conduct upon which the charge against the defendant is based;

(iii) that the defendant shall participate in a supervised rehabilitation program, which may include treatment, counseling, training, or education;

(iv) that the defendant shall make restitution in a specified manner for harm or loss caused by the offense; or

(v) any other reasonable conditions.

(b) The agreement must be in writing, must be signed by the parties, and must state that the defendant waives the right to speedy trial for the period of deferral. The agreement may include stipulations concerning the admissibility of evidence, specified testimony, or dispositions if the deferral of the prosecution is terminated and there is a trial on the charge.

(c) The prosecution must be deferred for the period specified in the agreement unless there has been a violation of its terms.

(d) The agreement must be terminated and the prosecution automatically dismissed with prejudice upon expiration and compliance with the terms of the agreement.

(2) A condition of pretrial diversion may be for the court to refer a defendant for evaluation to determine the appropriateness of proceedings pursuant to Title 53, chapter 21.

(3) After a charge has been filed, a deferral of prosecution may be entered into only with the approval of the court.

(4) A prosecution for a violation of 61-8-401, 61-8-406, 61-8-410, ~~or~~ 61-8-411*, or 61-8-465* may not be deferred."

Section 3. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation — limitation on issuance of probationary license — notation on driver's license. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 44-4-1205 and 61-2-302 and except as otherwise provided in this section, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) Subject to 61-5-231 and except as provided in subsection (4) of this section:

(i) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a first offense of violating 61-8-401, 61-8-406, ~~or~~ 61-8-411, *or 61-8-465,* the department shall suspend the driver's license or driving privilege of the person for a period of 6 months;

(ii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a second offense of violating 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* within the time period specified in 61-8-734, the department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension unless the person completes at least 45 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements

of 61-8-442. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as required under 61-8-732, the license suspension remains in effect until the course or treatment, or both, are completed.

(iii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a third or subsequent offense of violating 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* within the time period specified in 61-8-734, the department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension unless the person completes at least 90 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements of 61-8-442. If the 1-year suspension period passes and the person has not completed a chemical dependency education course or treatment, or both, as required under 61-8-732, the license suspension remains in effect until the course or treatment, or both, are completed.

(3) (a) Except as provided in subsection (3)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

(4) If a person is convicted of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.

(5) (a) A driver's license that is issued after a license revocation to a person described in subsection (5)(b) must be clearly marked with a notation that conveys the term of the person's probation restrictions.

(b) The provisions of subsection (5)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-731, the judgment for which has as a condition of probation that the person may not operate a motor vehicle unless:

(i) operation is authorized by the person's probation officer; or

(ii) a motor vehicle operated by the person is equipped with an ignition interlock device."

Section 4. Section 61-5-231, MCA, is amended to read:

"61-5-231. Authorization of probationary license by DUI court — definition. (1) If a person convicted of a second or subsequent misdemeanor offense of driving under the influence of alcohol or drugs under 61-8-401 or 61-8-411*,* ~~or~~ driving with excessive alcohol concentration under 61-8-406*, or aggravated driving under the influence under 61-8-465* is participating in a DUI court, the court may, in the court's discretion, authorize a probationary driver's license for the participant subject to 61-8-442 and any other conditions imposed within the scope of the court's authority.

(2) If the participant fails to comply with the court's conditions, the court may revoke the probationary driver's license and impose a driver's license suspension for the time period established pursuant to 61-5-208 commencing from the date of the court's revocation of the probationary license.

(3) For purposes of this section, "DUI court" means any court that has established a special docket for handling cases involving persons charged with

violations under 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* and that implements a program of incentives and sanctions intended to assist a participant in completing treatment ordered pursuant to 61-8-732 and ending the participant's criminal behavior associated with driving under the influence of alcohol or drugs or with excessive alcohol concentration."

Section 5. Section 61-8-401, MCA, is amended to read:

"61-8-401. Driving under influence of alcohol or drugs — definitions. (1) It is unlawful and punishable, as provided in 61-8-442, 61-8-714, and 61-8-731 through 61-8-734, for a person who is under the influence of:

(a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;

(b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;

(c) any other drug to drive or be in actual physical control of a vehicle within this state; or

(d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) (a) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

(b) Subject to 61-8-440, as used in this part, "vehicle" has the meaning provided in 61-1-101, except that the term does not include a bicycle.

(4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-410, 61-8-411, *61-8-465,* 61-8-714, 61-8-722, 61-8-731 through 61-8-734, and subsections (1) through (5) of this section, with the word "state" in 61-8-406, 61-8-411, *61-8-465,* and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of

the ordinance and of the imposition of the fines and penalties provided in the ordinance.

(7) Absolute liability as provided in 45-2-104 is imposed for a violation of this section."

Section 6. Section 61-8-402, MCA, is amended to read:

"61-8-402. Implied consent — blood or breath tests for alcohol, drugs, or both — refusal to submit to test — administrative license suspension. (1) A person who operates or is in actual physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected presence of alcohol or drugs in the person's body.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the officer has reasonable grounds to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been placed under arrest for a violation of 61-8-401 or 61-8-465;

(ii) the person is under the age of 21 and has been placed under arrest for a violation of 61-8-410; or

(iii) the officer has probable cause to believe that the person was driving or in actual physical control of a vehicle:

(A) in violation of 61-8-401 and the person has been involved in a motor vehicle accident or collision resulting in property damage;

(B) involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in 45-2-101, or death; or

(C) in violation of 61-8-465.

(b) The arresting or investigating officer may designate which test or tests are administered.

(3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent provided by subsection (1).

(4) If an arrested person refuses to submit to one or more tests requested and designated by the officer as provided in subsection (2), the refused test or tests may not be given except as provided in subsection (5), but the officer shall, on behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately forward the license to the department, along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the department shall suspend the license for the period provided in subsection ~~(7)~~ *(8)*.

(5) If the arrested person has refused to provide a breath, blood, or urine sample under 61-8-409 or this section in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205, 61-8-401, 61-8-406, or 61-8-411 or a similar statute in another jurisdiction, the officer may apply for a search warrant to be issued pursuant to 46-5-224 to collect a sample of the person's blood for testing.

(6) (a) An arrested person who refuses to submit to one or more tests as provided in subsection (4) shall pay the department an administrative fee of $300, which must be deposited in the state special revenue account established pursuant to [section 1].

(b) The department shall adopt rules establishing procedures for the collection, distribution, and strict accountability of any funds received pursuant to this section.

~~(6)~~*(7)* Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing provided in 61-8-403.

~~(7)~~*(8)* (a) Except as provided in subsection ~~(7)(b)~~ *(8)(b)*, the following suspension periods are applicable upon refusal to submit to one or more tests:

(i) upon a first refusal, a suspension of 6 months with no provision for a restricted probationary license;

(ii) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the records of the department, a suspension of 1 year with no provision for a restricted probationary license.

(b) If a person who refuses to submit to one or more tests under this section is the holder of a commercial driver's license, in addition to any action taken against the driver's noncommercial driving privileges, the department shall:

(i) upon a first refusal, suspend the person's commercial driver's license for a 1-year period; and

(ii) upon a second or subsequent refusal, suspend the person's commercial driver's license for life, subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person is otherwise eligible, upon completion of a minimum suspension period of 10 years. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal for purposes of this subsection ~~(7)(b)~~ *(8)(b)*.

~~(8)~~*(9)* A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.

~~(9)~~*(10)* The department may recognize the seizure of a license of a tribal member by a peace officer acting under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department under this subsection is not reviewable under 61-8-403.

~~(10)~~*(11)* A suspension under this section is subject to review as provided in this part.

~~(11)~~*(12)* This section does not apply to tests, samples, and analyses of blood or breath used for purposes of medical treatment or care of an injured motorist, related to a lawful seizure for a suspected violation of an offense not in this part, or performed pursuant to a search warrant.

~~(12)~~*(13)* This section does not prohibit the release of information obtained from tests, samples, and analyses of blood or breath for law enforcement purposes as provided in 46-4-301 and 61-8-405(6)."

Section 7. Section 61-8-403, MCA, is amended to read:

"61-8-403. Right of appeal to court. (1) Within 30 days after notice of the right to a hearing has been given by a peace officer, a person may file a petition to challenge the license suspension or revocation in the district court in the county where the arrest was made.

(2) The court has jurisdiction and shall set the matter for hearing. The court shall give at least 10 days' written notice of the hearing to the county attorney of the county where the arrest was made and to the city attorney if the incident leading to the suspension or revocation resulted in a charge filed in a city or municipal court. The county attorney or city attorney may represent the state. If the county attorney and the city attorney cannot agree on who will represent the state, the county attorney shall represent the state.

(3) Upon request of the petitioner, the court may order the department to return the seized license or issue a stay of the suspension or revocation action pending the hearing.

(4) (a) The court shall take testimony and examine the facts of the case, except that the issues are limited to whether:

(i) a peace officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person was placed under arrest for violation of 61-8-401 *or 61-8-465*;

(ii) the person is under 21 years of age and was placed under arrest for a violation of 61-8-410;

(iii) the officer had probable cause to believe that the person was driving or in actual physical control of a vehicle in violation of 61-8-401 and the person was involved in a motor vehicle accident or collision resulting in property damage, bodily injury, or death; and

(iv) the person refused to submit to one or more tests designated by the officer.

(b) Based on the issues in subsection (4)(a) and no others, the court shall determine whether the petitioner is entitled to a license or whether the petitioner's license is subject to suspension or revocation.

(5) This section does not grant a right of appeal to a state court if a driver's license is initially seized, suspended, or revoked pursuant to a tribal law or regulation that requires alcohol or drug testing of motor vehicle operators."

Section 8. Section 61-8-405, MCA, is amended to read:

"61-8-405. Administration of tests. (1) Only a physician, registered nurse, or other qualified person acting under the supervision and direction of a physician or registered nurse may, at the request of a peace officer, withdraw blood for the purpose of determining any measured amount or detected presence of alcohol, drugs, or any combination of alcohol and drugs in the person. This limitation does not apply to the sampling of breath.

(2) In addition to any test administered at the direction of a peace officer, a person may request that an independent blood sample be drawn by a physician or registered nurse for the purpose of determining any measured amount or detected presence of alcohol, drugs, or any combination of alcohol and drugs in the person. The peace officer may not unreasonably impede the person's right to obtain an independent blood test. The officer may but has no duty to transport the person to a medical facility or otherwise assist the person in obtaining the test. The cost of an independent blood test is the sole responsibility of the person requesting the test. The failure or inability to obtain an independent test by a

person does not preclude the admissibility in evidence of any test given at the direction of a peace officer.

(3) Upon the request of the person tested, full information concerning any test given at the direction of the peace officer must be made available to the person or the person's attorney.

(4) A physician, registered nurse, or other qualified person acting under the supervision and direction of a physician or registered nurse does not incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer a test.

(5) The department in cooperation with any appropriate agency shall adopt uniform rules for the giving of tests and may require certification of training to administer the tests as considered necessary.

(6) If a peace officer has probable cause to believe that a person has violated 61-8-401, 61-8-406, 61-8-410, 61-8-411, *61-8-465,* or 61-8-805 and a sample of blood, breath, urine, or other bodily substance is taken from that person for any reason, a portion of that sample sufficient for analysis must be provided to a peace officer if requested for law enforcement purposes and upon issuance of a subpoena as provided in 46-4-301."

Section 9. Section 61-8-408, MCA, is amended to read:

"61-8-408. Multiple convictions prohibited. When the same acts may establish the commission of an offense under 61-8-401 and 61-8-406*,* ~~or~~ 61-8-401 and 61-8-411, *61-8-401 and 61-8-465, 61-8-406 and 61-8-411, 61-8-406 and 61-8-465, or 61-8-411 and 61-8-465,* a person charged with the conduct may be prosecuted for a violation of 61-8-401 and 61-8-406*,* ~~or~~ 61-8-401 and 61-8-411*, 61-8-401 and 61-8-465, 61-8-406 and 61-8-411, 61-8-406 and 61-8-465, or 61-8-411 and 61-8-465.* However, the person may be convicted of only one offense under 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*."

Section 10. Section 61-8-409, MCA, is amended to read:

"61-8-409. Preliminary alcohol screening test. (1) A person who operates or is in actual physical control of a vehicle upon ways of this state open to the public is considered to have given consent to a preliminary alcohol screening test of the person's breath, for the purpose of estimating the person's alcohol concentration, upon the request of a peace officer who has a particularized suspicion that the person was driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 61-8-410 or 61-8-465.

(2) The person's obligation to submit to a test under 61-8-402 is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(3) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the preliminary alcohol screening test will result in the suspension for up to 1 year of that person's driver's license.

(4) If the person refuses to submit to a test under this section, a test will not be given except as provided in 61-8-402(5). However, the refusal is sufficient cause to suspend the person's driver's license as provided in 61-8-402.

(5) A hearing as provided for in 61-8-403 must be available. The issues in the hearing must be limited to determining whether a peace officer had a particularized suspicion that the person was driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 61-8-410 and whether the person refused to submit to the test.

(6) The provisions of 61-8-402(3) through ~~(9)~~ *(10)* that do not conflict with this section are applicable to refusals under this section. If a person refuses a test requested under 61-8-402 and this section for the same incident, the department may not consider each a separate refusal for purposes of suspension under 61-8-402.

(7) A test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the preliminary alcohol screening test have been certified by the department pursuant to rules adopted under the authority of 61-8-405(5)."

Section 11. Section 61-8-421, MCA, is amended to read:

"61-8-421. Forfeiture procedure. (1) A motor vehicle forfeited under 61-8-733 must be seized by the arresting agency within 10 days after the conviction and disposed of as provided in Title 44, chapter 12, part 2. Except as provided in this section, the provisions of Title 44, chapter 12, part 2, apply to the extent applicable.

(2) Forfeiture proceedings under 44-12-201(1) must be instituted by the arresting agency within 20 days after the seizure of the motor vehicle.

(3) For purposes of 44-12-203 and 44-12-204, there is a rebuttable presumption of forfeiture. The owner of the motor vehicle may rebut the presumption by proving a defense under 61-8-733(2) or by proving that the owner was not convicted of a second or subsequent offense under 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*. It is not a defense that the convicted person owns the motor vehicle jointly with another person.

(4) (a) For purposes of 44-12-206, the proceeds of the sale of the motor vehicle must be distributed first to the holders of security interests who have presented proper proof of their claims, up to the amount of the interests or the amount received from the sale, whichever is less, and the remainder to the general fund of the arresting agency.

(b) A holder of a security interest may petition the sentencing court for transfer of title to the motor vehicle to the holder of the security interest if the secured interest is equal to or greater than the estimated value of the motor vehicle.

(5) Actions the court may take under 44-12-205(3) to protect the rights of innocent persons include return of the motor vehicle without a sale to an owner who is unable to present an adequate defense under this section but is found by the court to be without fault."

Section 12. Section 61-8-442, MCA, is amended to read:

"61-8-442. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device — 24/7 sobriety and drug monitoring program — forfeiture of vehicle. (1) In addition to the punishments provided in 61-8-714*,* ~~and~~ 61-8-722, *and 61-8-465,* regardless of disposition and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense under 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*:

(a) restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or

(b) require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program.

(2) If a person is convicted of a second or subsequent violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*, in addition to the punishments provided in 61-8-714, ~~and~~ 61-8-722*, and 61-8-465*, regardless of disposition, the court shall:

(a) if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device;

(b) require the person to participate in the 24/7 sobriety and drug monitoring program provided for in 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program; or

(c) order that each motor vehicle owned by the person at the time of the offense be seized and subjected to the forfeiture procedure provided under 61-8-421.

(3) Any restriction or requirement imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person's driving record maintained by the department in accordance with 61-11-102.

(4) The duration of a restriction imposed under this section must be monitored by the department."

Section 13. Section 61-8-465, MCA, is amended to read:

"61-8-465. Aggravated DUI. (1) A person commits the offense of aggravated driving under the influence if the person is in violation of 61-8-401, 61-8-406, or 61-8-411 and ~~at the time of the offense~~:

(a) the person's ~~blood~~ alcohol concentration*, as shown by analysis of the person's blood or breath,* is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;

(c) the person's driver's license or privilege to drive is suspended, canceled, or revoked as a result of a prior violation of 61-8-401, 61-8-402, 61-8-406, or 61-8-411;

(d) the person refuses to provide a breath or blood sample as required in 61-8-402 and the person's driver's license or privilege to drive was suspended, canceled, or revoked under 61-8-402 within 10 years of the commission of the present offense; or

(e) the person has one prior conviction or pending charge for a violation of 45-5-106, 45-5-205, 61-8-401, 61-8-406, 61-8-411, or this section within 10 years of the commission of the present offense or has two or more prior convictions or pending charges, or any combination thereof, for violations of 45-5-106, 45-5-205, 61-8-401, 61-8-406, or 61-8-411.

(2) ~~A~~ *Except as provided in subsection (6), a* person convicted of *a first violation of* the offense of aggravated driving under the influence shall be punished by:

(a) a fine of $1,000*, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of $2,000*; and

(b) a term of imprisonment ~~of~~ *for* not *less than 48 hours or* more than 1 year, ~~part of which may be suspended, except for the mandatory minimum sentences set forth in 61-8-714~~ *except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 72 consecutive hours*.

(3) Except as provided in subsection (6), a person convicted of a second violation of the offense of aggravated driving under the influence shall be punished by:

(a) a fine of $2,500, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of $5,000; and

(b) a term of imprisonment for not less than 15 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 45 days.

(i) Except for the minimum term of imprisonment provided in subsection (3)(b), the mandatory minimum imprisonment term may be suspended pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(ii) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(4) Except as provided in subsection (6), a person convicted of a third violation of the offense of aggravated driving under the influence shall be punished by:

(a) a fine of $5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of $10,000; and

(b) a term of imprisonment for not less than 40 consecutive days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 90 consecutive days.

(i) Except for the minimum term of imprisonment provided in subsection (4)(b), the mandatory minimum imprisonment term may be suspended pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(ii) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

~~(3)~~*(5)* During the suspended sentence imposed by the court under subsection (2)(b)*, (3)(b), or (4)(b)*:

(a) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts if available;

(b) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program if available and if imposed by the court; and

(c) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(6) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs, with an excessive alcohol concentration, under the influence of delta-9-tetrahydrocannabinol, or aggravated driving under the influence.

~~(4)~~*(7)* Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section."

Section 14. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs — first through third offense. (1) (a) Except as provided in subsection (4) or (5), a person convicted of a first violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than ~~$300~~ *$600* or more than $1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than ~~$600~~ *$1,200* or more than $2,000.

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(2) (a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401 shall be punished by a fine of not less than ~~$600~~ *$1,200* or more than ~~$1,000~~ *$2,000* and by imprisonment for not less than 7 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than ~~$1,200~~ *$2,400* or more than ~~$2,000~~ *$4,000* and by imprisonment for not less than 14 days or more than 1 year.

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(3) (a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-401 shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than ~~$1,000~~ *$2,500* or more than $5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60 days or more than 1 year and by a fine of not less than ~~$2,000~~ *$5,000* or more than $10,000.

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration*, driving under the influence of delta-9-tetrahydrocannabinol, or aggravated driving under the influence*.

(5) If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465."

Section 15. Section 61-8-722, MCA, is amended to read:

"61-8-722. Penalty for driving with excessive alcohol concentration or delta-9-tetrahydrocannabinol level — first through third offense. (1) Except as provided in subsection (4) or (5), a person convicted of a first violation of 61-8-406 or 61-8-411 shall be punished by imprisonment for not more than 6 months and by a fine of not less than ~~$300~~ *$600* or more than $1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not more than 6 months and by a fine of not less than ~~$600~~ *$1,200* or more than $2,000.

(2) (a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-406 or 61-8-411 shall be punished by imprisonment for not less than 5 days or more than 1 year and by a fine of not less than ~~$600~~ *$1,200* or more than ~~$1,000~~ *$2,000*, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 10 days or more than 1 year and by a fine of not less than ~~$1,200~~ *$2,400* or more than ~~$2,000~~ *$4,000*.

(b) The mandatory minimum imprisonment sentence may not be served under home arrest and may not be suspended unless the judge finds that imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(3) (a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-406 or 61-8-411 shall be punished by imprisonment for not less than 30 days or more than 1 year and by a fine of not less than ~~$1,000~~ *$2,500* or more than $5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 60 days or more than 1 year and by a fine of not less than ~~$2,000~~ *$5,000* or more than $10,000.

(b) The mandatory minimum imprisonment sentence may not be served under home arrest and may not be suspended unless the judge finds that imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration.

(5) If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465."

Section 16. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — *under influence of delta-9-tetrahydrocannabinol — aggravated driving under the influence* — penalty for fourth or subsequent offense. (1) Except as provided in subsection (3), if a person is convicted of a violation of 61-8-401,

61-8-406, ~~or~~ 61-8-411, *or 61-8-465,* the person has either a single conviction under 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, *45-5-628(1)(e),* 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of 13 months. The court shall order that if the person successfully completes a residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than ~~$1,000~~ *$5,000* or more than $10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

(3) If a person is convicted of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411, *or 61-8-465,* the person has either a single conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205, *45-5-628(1)(e),* 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined an amount of not less than ~~$1,000~~ *$5,000* or more than $10,000, or both.

(4) The court shall, as a condition of probation, order:

(a) that the person abide by the standard conditions of probation promulgated by the department of corrections;

(b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;

(c) that the person may not frequent an establishment where alcoholic beverages are served;

(d) that the person may not consume alcoholic beverages;

(e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

(f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;

(g) that the person submit to random or routine drug and alcohol testing; and

(h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

(5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

(a) payment of a fine as provided in 46-18-231;

(b) payment of costs as provided in 46-18-232 and 46-18-233;

(c) payment of costs of assigned counsel as provided in 46-8-113;

(d) community service;

(e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or

(f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

(6) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.

(7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section."

Section 17. Section 61-8-732, MCA, is amended to read:

"61-8-732. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — assessment, education, and treatment required. (1) In addition to the punishments provided in *61-8-465,* 61-8-714, 61-8-722, and 61-8-731, regardless of disposition, a defendant convicted of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* shall complete:

(a) a chemical dependency assessment;

(b) a chemical dependency education course; and

(c) on a second or subsequent conviction for a violation of 61-8-401, 61-8-406, or 61-8-411, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program under 61-8-731(2), or as required by subsection (8) of this section, chemical dependency treatment.

(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) The chemical dependency assessment and the chemical dependency education course must be completed at a treatment program approved by the department of public health and human services and must be conducted by a licensed addiction counselor. The defendant may attend a treatment program of the defendant's choice as long as the treatment services are provided by a licensed addiction counselor. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment.

(4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by the department of public health and human services.

(5) The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a licensed addiction counselor pursuant to diagnosis and patient

placement rules adopted by the department of public health and human services. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(6) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a chemical dependency education course or treatment program. If the defendant fails to attend the education course or treatment program, the counselor shall notify the court of the failure.

(7) A court or counselor may not require attendance at a self-help program other than at an "open meeting", as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

(8) Chemical dependency treatment must be ordered for a first-time offender convicted of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* upon a finding of chemical dependency made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

(9) (a) On a second or subsequent conviction, the treatment program provided for in subsection (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

(b) If a defendant fails to comply with the monitoring program imposed under subsection (9)(a), the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 1 year.

(10) Notwithstanding 46-18-201(2), whenever a judge suspends a sentence imposed under 61-8-714 and orders the person to complete chemical dependency treatment under this section, the judge retains jurisdiction to impose any suspended sentence for up to 1 year."

Section 18. Section 61-8-733, MCA, is amended to read:

"61-8-733. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device — 24/7 sobriety and drug monitoring program — forfeiture of vehicle. (1) On the second or subsequent conviction of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* or a second or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the court, in addition to the punishments provided in 61-5-212, *61-8-465,* 61-8-714, and 61-8-722 and any other penalty imposed by law, shall:

(a) if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device;

(b) require the person to participate in the 24/7 sobriety and drug monitoring program provided for in 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program; or

(c) order that each motor vehicle owned by the person at the time of the offense be seized and subjected to the procedure provided under 61-8-421.

(2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or the United States.

(3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest if the person did not know and could not have reasonably known of the unlawful possession, use, or other act on which the forfeiture is sought."

Section 19. Section 61-8-734, MCA, is amended to read:

"61-8-734. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — conviction defined — place of imprisonment — home arrest — exceptions — deferral of sentence not allowed. (1) (a) For the purpose of determining the number of convictions for prior offenses referred to in 61-8-465, 61-8-714, 61-8-722, or 61-8-731, "conviction" means a final conviction, as defined in 45-2-101, in this state, conviction for a violation of a similar statute or regulation in another state or on a federally recognized Indian reservation, or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation, which forfeiture has not been vacated.

(b) An offender is considered to have been previously convicted for the purposes of sentencing if less than 10 years have elapsed between the commission of the present offense and a previous conviction unless the offense is the offender's third or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

(c) A previous conviction under 61-8-714 or 61-8-722 for violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465, and a previous conviction for a violation of 45-5-104, 45-5-205, or 45-5-628(1)(e), when the offense under 45-5-104 occurred while the person was operating a vehicle in violation of 61-8-401(1),* may be counted for purposes of determining the number of a subsequent conviction for violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*.

(2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under *61-8-465,* 61-8-714, 61-8-722, or 61-8-731 be served in another facility made available by the county and approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The court may impose restrictions on the defendant's ability to leave the premises of the facility and require that the defendant follow the rules of that facility. The facility may be, but is not required to be, a community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred by the sentencing court.

(3) Subject to the limitations set forth in *61-8-465,* 61-8-714, and 61-8-722 concerning minimum periods of imprisonment, the court may order that a term of imprisonment imposed under ~~either section~~ *those sections* be served by imprisonment under home arrest, as provided in Title 46, chapter 18, part 10.

(4) A court may not defer imposition of sentence under *61-8-465,* 61-8-714, 61-8-722, or 61-8-731.

(5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2), relating to suspension of driver's licenses and later reinstatement of driving privileges, apply to any conviction under *61-8-465,* 61-8-714*,* or 61-8-722 for a violation of 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465*."

Section 20. Section 61-8-741, MCA, is amended to read:

"61-8-741. Suspension of imprisonment sentence for DUI court participation — DUI court defined. (1) If a person participates in a DUI court, the court may, at the court's discretion, suspend all or a portion of an imprisonment sentence under *61-8-465,* 61-8-714 or 61-8-722, except for the mandatory minimum imprisonment term.

(2) If a person participating in a DUI court fails to comply with the conditions imposed by the DUI court, the court shall revoke the suspended imprisonment sentence and any sentence subsequently imposed must commence from the effective date of the revocation.

(3) For purposes of this section, "DUI court" means any court that has established a special docket for handling cases involving persons convicted under 61-8-401, 61-8-406, ~~or~~ 61-8-411*, or 61-8-465* and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-732 and to end the participant's criminal behavior associated with driving under the influence of drugs or alcohol or with excessive blood alcohol concentration."

Section 21. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to [section 1].

Section 22. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Section 23. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 425

[HB 510]

AN ACT FACILITATING IMPROVED LAND AND RESOURCE MANAGEMENT ON PUBLIC LANDS IN MONTANA TO AID LOCAL GOVERNMENTS IN REDUCING WILDFIRE RISK AND IMPROVING FOREST HEALTH ON FEDERAL LANDS; ESTABLISHING DUTIES FOR THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; PROVIDING STATE ASSISTANCE TO LOCAL GOVERNMENTS; GRANTING RULEMAKING AUTHORITY; ESTABLISHING A LOCAL GOVERNMENT FOREST ADVISOR; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. State assistance to local governments as consultant for federal land management proposals — rulemaking. (1) The department of natural resources and conservation, at the request of and in coordination with a local government as defined in 7-11-1002, may serve as a consulting subject matter expert on federal vegetation management projects.

(2) The department may provide the assistance to local governments listed in subsection (1) on projects that address forest health or wildfire risk.

(3) The department may establish a minimal procedure for local governments to request state assistance pursuant to [section 2] and this section.

(4) The department shall give priority to requests and services pursuant to this section that will:

(a) reduce excessive wildfire fuels that endanger communities, infrastructure, or municipal watersheds;

(b) enhance economic productivity in economically depressed counties; and

(c) not exceed available staff time and resources.

(5) The department may adopt rules to implement this section.

Section 2. Local government forest advisor. There is a local government forest advisor who reports to the state forester. The local government forest advisor shall provide assistance on projects on federal forested lands upon request of a local government for projects that meet the criteria of [section 1(2) and (4)].

Section 3. Appropriation. There is appropriated $240,000 from the general fund for the biennium beginning July 1, 2015, to the department of natural resources and conservation to implement the provisions of [sections 1 and 2].

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 2].

Section 5. Effective date. [This act] is effective July 1, 2015.

Section 6. Termination. [This act] terminates June 30, 2020.

Approved May 5, 2015

CHAPTER NO. 426

[HB 559]

AN ACT REVISING THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM; ALLOWING TRIBAL GOVERNMENTS OR THEIR DESIGNEES TO ADMINISTER LOCAL PROGRAMS; REMOVING THE REQUIREMENT FOR LOCAL PROGRAM ADVISORY BOARDS; REQUIRING THE LOCAL PROGRAMS TO REPORT TO THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; REQUIRING THE COMMISSION TO REPORT TO THE LEGISLATURE; PROVIDING AN APPROPRIATION; AMENDING SECTION 7, CHAPTER 410, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, Montana is committed in its educational goals to the preservation and perpetuation of American Indian cultural integrity; and

WHEREAS, language is the conveyor of culture and is fundamental to cultural integrity and identity; and

WHEREAS, Montana tribal languages are in a time of crisis through the loss of native speakers, writers, and signers; and

WHEREAS, the tribes and the state have resources such as the tribal colleges, councils, historic preservation offices, state universities, the Montana historical society, and the state library to preserve and protect Montana tribal languages for current and future generations.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-537, MCA, is amended to read:

"20-9-537. (Temporary) Montana Indian language preservation ~~pilot~~ program. (1) There is a Montana Indian language ~~pilot~~ preservation program. The program is established to support efforts of Montana tribes to preserve *and perpetuate* Indian languages in the form of spoken, written, or sign language and to assist in the preservation and curricular goals of Indian education for all pursuant to Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) (a) The state-tribal economic development commission established in 90-1-131 shall administer the program and, in collaboration with the Montana historical society, ~~Montana public television organizations,~~ the state director of Indian affairs, and each tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe, shall ~~adopt program rules by July 31, 2013~~ *create program guidelines*.

(b) The program ~~rules~~ *guidelines* must address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(c) The performance and output standards must include:

(i) development of audio and visual recordings;

(ii) creation of ~~dictionaries and other~~ reference materials, ~~including~~ *which may be in* audio, visual, electronic, or written ~~dictionaries~~ *format*; ~~and~~

(iii) creation and publication of curricula, which may include electronic curricula*; and*

(iv) development and maintenance of a long-term language preservation strategic plan.

(d) The performance and output standards may include:

(i) language classes;

(ii) language immersion camps;

(iii) storytelling; ~~and~~

(iv) publication of literature*; and*

(v) language programs, workshops, seminars, camps, and other presentations in formal or informal settings.

(3) By ~~September 15, 2014, at least two copies of~~ *December 15, 2016,* any tangible goods produced under this section~~, including but not limited to audio or visual recordings, literature, dictionaries, or other publications,~~ must be submitted to the Montana historical society for the benefit of related language preservation efforts and for preservation and archival purposes.

(4) Tribal governments *or their designees* receiving program funds ~~shall~~ *may* form local program advisory boards. Members of a local program advisory board may include but are not limited to representatives from any of the entities listed in subsection (6). ~~Each local program advisory board shall work with college tribal language instructors and individuals who evaluate applicants for licensure as a class 7 American Indian language and culture specialist to develop and adopt measurable and specific outcome requirements for their respective language preservation programs.~~

(5) (a) Each ~~local program advisory board~~ *tribal government or designee* shall provide reports on expenditures of grant funds, overall program progress, and other criteria ~~determined by the state-tribal economic development commission~~ *required under the guidelines established* pursuant to subsection (2)(a) to the ~~state-tribal relations committee at each meeting during the interim~~ *state-tribal economic development commission*.

(b) The ~~state-tribal relations committee~~ *state-tribal economic development commission* shall report any findings, comments, or recommendations regarding each local program and the Montana Indian language preservation ~~pilot~~ program to the ~~64th~~ legislature *as provided in 5-11-210*.

(6) Tribal governments *and their designees* are encouraged to maximize the impact of grant funds by forming partnerships among state and tribal entities and leveraging existing resources for the preservation of Indian languages and the education of all Montanans in a way that honors the cultural integrity of American Indians. Suggested partner entities include but are not limited to:

(a) the governor's office of Indian affairs;

(b) school districts located on reservations;

(c) tribal colleges;

(d) tribal historic preservation offices;

(e) tribal language and cultural programs;

(f) units of the Montana university system;

(g) the Montana historical society;

(h) the office of public instruction;

(i) Montana public television organizations;

(j) school districts not located on reservations; and

(k) the Montana state library.

(7) State entities that operate film and video studios and equipment shall cooperate with each local tribal preservation program in the production of materials for preservation and archival purposes.

(8) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the cultural and intellectual property may be negotiated between the tribe and other partnering entities. (Terminates June 30, ~~2015—sec. 7, Ch. 410, L. 2013~~ *2017*.)"

Section 2. Appropriation. There is appropriated $750,000 from the state general fund to the state-tribal economic development commission in each year of the biennium beginning July 1, 2015, for the purposes described in 20-9-537. Any remaining funds that are unencumbered as of June 30, 2017, must revert to the general fund.

Section 3. Section 7, Chapter 410, Laws of 2013, is amended to read:

"**Section 7. Termination.** [This act] terminates June 30, ~~2015~~ *2017*."

Section 4. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and both contain an appropriation of $750,000 in each year of the biennium beginning July 1, 2015, then [section 2 of this act] is void.

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Termination. [This act] terminates July 30, 2017.

Approved May 5, 2015

CHAPTER NO. 427

[HB 560]

AN ACT REVISING THE FUND STRUCTURE AND THE BUDGETING PROCESS FOR THE BOARD OF PUBLIC ACCOUNTANTS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-15-1756, 17-7-502, 37-1-101, AND 37-50-205, MCA; REPEALING SECTION 37-50-315, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enterprise fund. (1) There is an enterprise fund, as described in 17-2-102, established for the use of the board. The money in the fund is statutorily appropriated as provided in 17-7-502.

(2) All licensing fees, other money collected by the department on behalf of the board, and all interest or earnings on money deposited in the enterprise fund must be deposited in or credited to the fund.

(3) Money in the enterprise fund must be invested by the board of investments pursuant to the provisions of the unified investment program for state funds.

(4) The enterprise fund must retain a cash reserve balance of at least 15% of the average of the last 3 years of revenue as needed for operation of the board and measured on completion of the license renewal cycle.

(5) The enterprise fund may not include money taken from the general fund.

Section 2. Section 2-15-1756, MCA, is amended to read:

"2-15-1756. Board of public accountants. (1) There is a board of public accountants.

(2) The board consists of seven members appointed by the governor. The members are:

(a) except as provided in subsection (3), five certified public accountants certified under Title 37, chapter 50, who are certified and actively engaged in the practice of public accounting and who have held a valid certificate for at least 5 years before being appointed; and

(b) two members of the general public who are not engaged in the practice of public accounting.

(3) The board may include four certified public accountants pursuant to subsection (2)(a) and one licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public accounting and who has held a valid license for at least 5 years prior to appointment.

(4) Professional associations of public accountants may submit to the governor a list of names of two candidates for each position from which the appointment pursuant to subsection (2)(a) may be made. However, the governor is not restricted to the names on the list. The list may include recommendations for a certified public accountant or a licensed public accountant.

(5) Each appointment is subject to confirmation by the senate and must be submitted for consideration at the next regular session following appointment.

(6) The members shall serve staggered 4-year terms. The governor may remove a member for neglect of duty or other just cause.

(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121*, except that the provisions of 2-15-121(2)(b) do not apply*."

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; *[section 1];* 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of

76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 4. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board or a program within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(d);

(9) (a) provide notice to the board and to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(b) suspend all duties under this title related to the board except for services related to renewal of licenses;

(c) review the need for a board and make recommendations to the legislative interim committee with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency; and

(d) notwithstanding 2-15-121, recover the costs by one-time charges against all licensees of the board after providing notice and meeting the requirements under the Montana Administrative Procedure Act;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary~~;~~. *This subsection does not apply to the board of public accountants, except that the department may monitor the board's cash balances.*

(11) establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided.

Late penalty fees may be set without being commensurate with the cost of services provided.

(12) adopt uniform rules for all boards and department programs to comply with the public notice requirements of 37-1-311 and 37-1-405. The rules may require the posting of only the licensee's name and the fact that a hearing is being held when the information is being posted on a publicly available website prior to a decision leading to a suspension or revocation of a license or other final decision of a board or the department."

Section 5. Section 37-50-205, MCA, is amended to read:

"37-50-205. Duties of the department. The department shall:

(1) assist the board in transactions of its business and keep a record of the board's official action; ~~and~~

(2) assess to the board the reasonable costs of the department incurred in assisting the board*; and*

(3) track the balance of funds in the enterprise fund, provided for in [section 1], and inform the board."

Section 6. Deposit of money collected. Fees and other money collected by the department under this chapter must be deposited in the state special revenue fund for the use of the board.

Section 7. Repealer. The following section of the Montana Code Annotated is repealed:

37-50-315. Deposit of moneys collected.

Section 8. Codification instruction. [Sections 1 and 6] are intended to be codified as an integral part of Title 37, chapter 50, part 2, and the provisions of Title 37, chapter 50, part 2, apply to [sections 1 and 6].

Section 9. Effective date. [Section 6] is effective October 1, 2019.

Section 10. Termination. [Sections 1 through 5] terminate September 30, 2019.

Approved May 5, 2015

CHAPTER NO. 428

[SB 83]

AN ACT GENERALLY REVISING HEALTH INSURANCE LAWS; ADOPTING AND REVISING PROCESSES THAT PROVIDE FOR UTILIZATION REVIEW, GRIEVANCES, AND EXTERNAL REVIEW OF A HEALTH INSURANCE ISSUER'S ACTIONS; PROVIDING GUIDELINES FOR INDEPENDENT REVIEW ORGANIZATIONS FOR EXTERNAL REVIEWS; LIMITING LIABILITY FOR INDEPENDENT REVIEW ORGANIZATIONS FOR DECISIONS MADE IN EXTERNAL REVIEWS; REQUIRING HEALTH INSURANCE ISSUERS TO PAY THE COSTS OF AN EXTERNAL REVIEW; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-30-102, 33-31-111, 33-32-101, 33-32-102, 33-32-103, 33-32-104, 33-32-105, AND 33-33-103, MCA; REPEALING SECTIONS 33-32-201, 33-32-203, 33-32-204, 33-37-101, 33-37-102, 33-37-103, 33-37-104, 33-37-105, 33-37-106, AND 33-37-110, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Corporate oversight of utilization review program. A health insurance issuer is responsible for:

(1) monitoring all utilization review activities carried out by or on behalf of the health insurance issuer;

(2) ensuring that all requirements of [sections 1 through 9] and rules adopted pursuant to [sections 1 through 9] are met; and

(3) ensuring that appropriate personnel have operational responsibility for the conduct of the health insurance issuer's utilization review program.

Section 2. Responsibility for contracted services. Whenever a health insurance issuer contracts with a utilization review organization or other entity to perform the utilization review functions required by [sections 1 through 9] or rules adopted pursuant to [sections 1 through 9], the commissioner shall hold the health insurance issuer responsible for monitoring the activities of the utilization review organization or the entity with which the health insurance issuer has contracted and for ensuring that the requirements of [sections 1 through 9] are met.

Section 3. Health insurance issuer duties for utilization review. (1) A health insurance issuer that requires a request for benefits under the covered person's health plan to be subjected to utilization review shall implement a utilization review program with written documentation describing all review activities and procedures, both delegated and nondelegated, for:

(a) the filing of benefit requests;

(b) the notification of utilization review and benefit determinations; and

(c) the review of adverse determinations in accordance with [sections 10 through 31].

(2) The written documentation must describe the following:

(a) procedures to evaluate the medical necessity, appropriateness, efficacy, or efficiency of health care services;

(b) data sources and clinical review criteria used in decisionmaking;

(c) mechanisms to ensure consistent application of clinical review criteria and compatible decisions;

(d) data collection processes and analytical methods used in assessing utilization of health care services;

(e) provisions for ensuring confidentiality of clinical and proprietary information;

(f) the organizational structure that periodically assesses utilization review activities and reports to the health insurance issuer's governing body. This organizational structure may include but is not limited to the utilization review committee or a quality assurance committee.

(g) the staff position functionally responsible for day-to-day program management.

(3) A health insurance issuer shall:

(a) file an annual summary report of its utilization review program activities with the commissioner in the format specified by the commissioner;

(b) maintain records for a minimum of 6 years of all benefit requests, claims, and notices associated with utilization review and benefit determinations made in accordance with [sections 5 and 6]; and

(c) make the records maintained under subsection (3)(b) available, on request, for examination by covered persons, the commissioner, and appropriate federal agencies.

Section 4. Operational requirements. (1) A utilization review program must use documented clinical review criteria that are based on sound clinical evidence and are evaluated periodically to ensure ongoing efficacy. A health insurance issuer may develop its own clinical review criteria or may purchase or license clinical review criteria from qualified vendors.

(2) A health insurance issuer shall, on request, make available its clinical review criteria to authorized government agencies, including the commissioner.

(3) Qualified health care professionals shall administer and oversee the utilization review program.

(4) A health insurance issuer shall issue utilization review and benefit determinations in a timely manner pursuant to the requirements of [sections 5 and 6].

(5) (a) Whenever a health insurance issuer fails to adhere to the requirements of [section 5 or 6], as applicable, with respect to conducting a utilization review and making benefit determinations of a benefit request or claim, the covered person is considered to have exhausted the provisions of [sections 1 through 9] and may take action under subsection (5)(b).

(b) A covered person may file a request for external review in accordance with the procedures outlined in [sections 17 through 31]. In addition to filing a request, a covered person is entitled to pursue any available remedies under state or federal law if the health insurance issuer failed to provide a reasonable internal claims and appeals process designed to yield a decision on the merits of the claim.

(6) (a) [Section 5 or 6] may not be considered exhausted based on a de minimis violation that does not cause and is not likely to cause prejudice or harm to the covered person, as long as the health insurance issuer demonstrates that the violation was for good cause or was due to matters beyond the control of the health insurance issuer and that the violation occurred in the context of an ongoing, good faith exchange of information between the health insurance issuer and the covered person or, if applicable, the covered person's authorized representative.

(b) The exception provided in subsection (6)(a) does not apply if the violation is part of a pattern or practice of violations by the health insurance issuer.

(7) A health insurance issuer shall maintain a process to ensure that utilization reviewers apply clinical review criteria consistently in conducting utilization review.

(8) A health insurance issuer shall routinely assess the effectiveness and efficiency of its utilization review program.

(9) A health insurance issuer's data systems must be sufficient to support utilization review program activities and to generate management reports to enable the health insurance issuer to monitor and manage health care services effectively.

(10) If a health insurance issuer delegates any utilization review activities to a utilization review organization, the health insurance issuer shall maintain adequate oversight, which includes:

(a) a written description of the utilization review organization's activities and responsibilities, including reporting requirements;

(b) evidence of formal approval of the utilization review organization's program by the health insurance issuer; and

(c) a process by which the health insurance issuer evaluates the performance of the utilization review organization.

(11) A health insurance issuer shall coordinate its utilization review program with other medical management activity conducted by the health insurance issuer, such as quality assurance, credentialing, health care provider contracting, data reporting, grievance procedures, processes for assessing member satisfaction, and risk management.

(12) A health insurance issuer shall provide covered persons and participating providers with access to the health insurance issuer's review staff through a toll-free number or collect-call telephone line.

(13) When conducting a utilization review, a health insurance issuer shall collect only the information necessary, including pertinent clinical information, to conduct the utilization review or make the benefit determination.

(14) (a) When conducting a utilization review, a health insurance issuer shall ensure that the review is conducted in a manner that ensures the independence and impartiality of the individuals involved in conducting the utilization review or making the benefit determination.

(b) In ensuring the independence and impartiality of individuals involved in the utilization review or benefit determination, a health insurance issuer may not make decisions regarding hiring, compensation, termination, promotion, or other similar matters based on the likelihood that the individual involved in the utilization review or benefit determination will support the denial of benefits.

Section 5. Procedures for standard utilization review and benefit determinations — notices. (1) A health insurance issuer shall establish written procedures, as provided in this section, for conducting standard utilization reviews and making benefit determinations on requests for benefits submitted to the health insurance issuer by covered persons or their authorized representatives. The written procedures must also include provisions for notifying covered persons or, if applicable, their authorized representatives of the health insurance issuer's determinations with respect to these requests within the timeframes specified in this section.

(2) (a) Subject to subsection (2)(c), for prospective review determinations, a health insurance issuer shall make the determination and notify the covered person or, if applicable, the covered person's authorized representative of the determination, whether the health insurance issuer certifies the provision of the benefit or not, within a reasonable period of time appropriate to the covered person's medical condition. The notification must be made not later than 15 days after the date the health insurance issuer receives the request.

(b) If the determination is an adverse determination, the health insurance issuer shall provide notification of the adverse determination in accordance with subsection (8).

(c) The time period for making a determination and notifying the covered person or, if applicable, the covered person's authorized representative of the determination pursuant to subsection (2)(a) may be extended one time by the health insurance issuer for up to 15 days if the health insurance issuer:

(i) determines that an extension is necessary due to matters beyond the health insurance issuer's control; and

(ii) notifies the covered person or, if applicable, the covered person's authorized representative, prior to the expiration of the initial 15-day period, of

the circumstances requiring the extension of time and of the date by which the health insurance issuer expects to make a determination.

(d) If the extension under subsection (2)(c) is necessary because of the failure of the covered person or, if applicable, the covered person's authorized representative to submit information necessary to reach a determination on the request, the notice of extension must:

(i) describe specifically the required information necessary to complete the request; and

(ii) give the covered person or, if applicable, the covered person's authorized representative at least 45 days after the date of receipt of the notice to provide the specified information.

(3) (a) If the health insurance issuer receives from a covered person or, if applicable, the covered person's authorized representative a prospective review request that fails to meet the health insurance issuer's filing procedures, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative of this failure and provide in the notice any information regarding the proper procedures to be followed for filing a request.

(b) The notice required under subsection (3)(a) must be provided as soon as possible but not later than 5 days after the date of the failure. The health insurance issuer may provide the notice orally or, if requested by the covered person or the covered person's authorized representative, in writing or electronically.

(c) To qualify for the provisions of this subsection (3) related to a failed filing procedure, the communication must:

(i) have been sent by a covered person or, if applicable, the covered person's authorized representative and received by a person or an organizational unit of the health insurance issuer responsible for handling benefit matters; and

(ii) refer to a specific covered person, a specific medical condition or symptom, and a specific health care service, treatment, or health care provider for which certification is being requested.

(4) For concurrent review determinations, if a health insurance issuer has certified an ongoing course of treatment to be provided over a period of time or a specified number of treatments:

(a) any reduction or termination by the health insurance issuer during the course of treatment before the end of the period or the specified number of treatments, other than by health plan amendment or termination of the health plan, constitutes an adverse determination; and

(b) the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative of the adverse determination in accordance with subsection (8) at a time sufficiently in advance of the reduction or termination to allow the covered person or, if applicable, the covered person's authorized representative to:

(i) file a grievance requesting a review of the adverse determination pursuant to [sections 10 through 31];

and

(ii) obtain a determination with respect to the review of the adverse determination before the benefit is reduced or terminated.

(5) The health care service or treatment that is the subject of the adverse determination must be continued without liability to the covered person

pending a determination under the internal review request made pursuant to [sections 10 through 16].

(6) (a) For retrospective review determinations, a health insurance issuer shall make the determination no later than 30 days after the date of receiving the benefit request.

(b) If the determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination to the covered person or, if applicable, the covered person's authorized representative in accordance with subsection (8).

(c) The time period for making a determination and notifying the covered person or, if applicable, the covered person's authorized representative of the determination pursuant to subsection (6)(a) may be extended one time by the health insurance issuer for up to 15 days if the health insurance issuer:

(i) determines that an extension is necessary due to matters beyond the health insurance issuer's control; and

(ii) notifies the covered person or, if applicable, the covered person's authorized representative, prior to the expiration of the initial 30-day period, of the circumstances requiring the extension of time and of the date by which the health insurance issuer expects to make a determination.

(d) If the extension under subsection (6)(c) is necessary because of the failure of the covered person or, if applicable, the covered person's authorized representative to submit information necessary to reach a determination on the request, the notice of extension must:

(i) describe specifically the information required to complete the request; and

(ii) give the covered person or, if applicable, the covered person's authorized representative at least 45 days after the date of receipt of the notice to provide the specified information.

(7) (a) For purposes of this section, the period within which a determination must be made begins on the date the request is received by the health insurance issuer in accordance with the health insurance issuer's procedures, established pursuant to [section 3], for filing a request. The date the request is received by the health insurance issuer must be counted without regard to whether all of the information necessary to make the determination accompanies the filing of the request.

(b) If the period for making the determination under this section is extended due to the failure of the covered person or, if applicable, the covered person's authorized representative to submit the information necessary to make the determination, the period for making the determination is counted from the date on which the health insurance issuer sends the notification of the extension to the covered person or, if applicable, the covered person's authorized representative until the earlier of:

(i) the date on which the covered person or, if applicable, the covered person's authorized representative responds to the request for additional information; or

(ii) the date on which the specified information was to have been submitted.

(c) If the covered person or, if applicable, the covered person's authorized representative fails to submit the information before the end of the extension period, as specified in this section, the health insurance issuer may deny the certification of the requested benefit.

(8) A notification of an adverse determination under this section must, in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative, set forth:

(a) information sufficient to identify the benefit request or claim involved and, if applicable, the date of service, the health care provider, and the claim amount;

(b) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information to the covered person or, if applicable, the covered person's authorized representative as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for review of an adverse determination pursuant to [sections 10 through 16] or a request for external review as outlined in [sections 17 through 31].

(c) the specific rationale behind the adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in denying the benefit request or claim;

(d) a reference to the specific plan provision on which the determination is based;

(e) a description of any additional material or information necessary for the covered person or, if applicable, the covered person's authorized representative to complete the benefit request, including an explanation of why the material or information is necessary to complete the request;

(f) a description of the health insurance issuer's grievance procedures established pursuant to [sections 10 through 16], including any time limits applicable to those procedures;

(g) a copy of any internal rule, guideline, protocol, or other similar criteria that the health insurance issuer may have relied on to make the adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the adverse determination and that a copy of the rule, guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request.

(h) an explanation of the scientific or clinical judgment for making the adverse determination if the adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request. The explanation under this subsection (8)(h) must apply the terms of the health plan to the covered person's medical circumstances.

(i) a statement explaining the availability of further assistance from the commissioner's office and the right of the covered person or, if applicable, the covered person's authorized representative to contact the commissioner's office at any time for assistance or, on completion of the health insurance issuer's grievance procedure and the external review process as provided under [sections 10 through 31], to file a civil suit in a court of competent jurisdiction. The statement must include contact information for the commissioner's office.

(9) (a) A health insurance issuer shall provide the notice required under this section in a culturally and linguistically appropriate manner as required in accordance with federal regulations, including 45 CFR 147.136(e), and rules adopted pursuant to [sections 10 through 16].

(b) To satisfy the provisions of subsection (9)(a), the health insurance issuer shall, at a minimum:

(i) provide oral language services, such as a telephone assistance hotline, that include answering questions in any applicable non-English language and providing assistance with filing benefit requests, claims, and appeals in any applicable non-English language;

(ii) provide, upon request, a notice in any applicable non-English language; and

(iii) include in the English version of the notice a prominently displayed statement in any applicable non-English language clearly indicating how to access the language services provided by the health insurance issuer.

(c) For purposes of this subsection (9), with respect to any United States county to which a notice is sent, a non-English language is an applicable non-English language if 10% or more of the population residing in the county is literate only in the same non-English language, as determined in federal guidance.

(10) If the adverse determination is a rescission, the health insurance issuer shall provide, in addition to any applicable disclosures required under this section, in a notice sent at least 30 days in advance of implementing the rescission decision:

(a) clear identification of the alleged fraudulent act, practice, or omission or the intentional misrepresentation of material fact;

(b) an explanation of why the act, practice, or omission was fraudulent or was an intentional misrepresentation of a material fact;

(c) the date when the advance notice period ends and the date to which the coverage is to be retroactively rescinded;

(d) notice that the covered person or, if applicable, the covered person's authorized representative may immediately file a grievance with the health insurance issuer requesting a review of the rescission; and

(e) a description of the health insurance issuer's grievance procedures, including any time limits applicable to these procedures.

(11) A health insurance issuer may provide the notices required under this section in writing or electronically.

Section 6. Procedures for expedited utilization review and benefit determinations. (1) With respect to urgent care requests and concurrent review urgent care requests, a health insurance issuer shall establish written procedures for receiving benefit requests from covered persons or, if applicable, their authorized representatives, for conducting an expedited utilization review and making benefit determinations, and for notifying the covered persons or their authorized representatives of the expedited utilization review and benefit determinations.

(2) (a) The procedures established under subsection (1) must include a requirement for the health insurance issuer to provide that, in the case of a failure by a covered person or, if applicable, the covered person's authorized representative to follow the health insurance issuer's procedures for filing an urgent care request, the covered person or the covered person's authorized

representative must be notified of the failure and the proper procedures to be followed for filing the request.

(b) The notice required under subsection (2)(a):

(i) must be provided to the covered person or, if applicable, the covered person's authorized representative not later than 24 hours after receipt of the request; and

(ii) may be made orally, unless the covered person or, if applicable, the covered person's authorized representative requests the notice in writing or electronically.

(c) To qualify for the provisions of this subsection (2) related to a failed filing procedure, the communication must:

(i) be sent by a covered person or, if applicable, the covered person's authorized representative and received by a person or organizational unit of the health insurance issuer responsible for handling benefit matters; and

(ii) contain a reference to a specific covered person, a specific medical condition or symptom, and a specific health care service, treatment, or health care provider for which approval is being requested.

(3) (a) For an urgent care request, unless the covered person or, if applicable, the covered person's authorized representative has failed to provide sufficient information for the health insurance issuer to determine whether or to what extent the benefits requested are covered benefits or payable under the health insurance issuer's health plan, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative as soon as possible, taking into account the medical condition of the covered person, but no later than 72 hours after the receipt of the request by the health insurance issuer.

(b) With respect to the request, the health insurance issuer shall state in the notification whether or not the determination is an adverse determination. If the health insurance issuer's determination is an adverse determination, the notice must comply with the provisions of subsection (7).

(4) (a) If the covered person or, if applicable, the covered person's authorized representative has failed to provide sufficient information for the health insurance issuer to make a determination, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative either orally or, if requested by the covered person or the covered person's authorized representative, in writing or electronically of this failure and identify what specific information is needed. This notification must be made as soon as possible but not later than 24 hours after receipt of the request.

(b) The health insurance issuer shall, taking into account the circumstances, provide the covered person or, if applicable, the covered person's authorized representative with a reasonable period of time to submit the necessary information. The reasonable period may not end less than 48 hours after the health insurance issuer notifies the covered person or, if applicable, the covered person's authorized representative of the failure to submit sufficient information as provided in subsection (4)(a).

(c) A health insurance issuer shall, in cases in which more information is required as provided in subsection (4)(a), notify the covered person or, if applicable, the covered person's authorized representative of its determination with respect to the urgent care request as soon as possible but not later than 48 hours after the earlier of:

(i) the health insurance issuer's receipt of the requested information; or

(ii) the end of the period provided for the covered person or, if applicable, the covered person's authorized representative to submit the requested information.

(d) If the covered person or, if applicable, the covered person's authorized representative fails to submit the information before the end of the period of the extension, as specified in subsection (4)(b), the health insurance issuer may deny the certification of the requested benefit.

(e) If the health insurance issuer's determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination in accordance with subsection (7).

(5) (a) For concurrent review urgent care requests involving a request by the covered person or, if applicable, the covered person's authorized representative to extend the course of treatment beyond the initial period of time or the number of treatments, if the request is made at least 24 hours prior to the expiration of the prescribed period of time or number of treatments, the health insurance issuer shall make a determination with respect to the request and notify the covered person or, if applicable, the covered person's authorized representative of the determination, whether it is an adverse determination or not, as soon as possible, taking into account the covered person's medical condition, but not later than 24 hours after the health insurance issuer's receipt of the request.

(b) If the health insurance issuer's determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination as provided in subsection (7).

(6) For the purposes of this section, the time period within which a determination must be made begins on the date the request is filed with the health insurance issuer in accordance with the health insurance issuer's procedures established pursuant to [section 3] for filing a request. The date the request is received by the health insurance issuer must be counted without regard to whether all of the information necessary to make the determination accompanies the filing of the request.

(7) A notification of an adverse determination under this section must, in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative, set forth:

(a) information sufficient to identify the benefit request or claim involved and, if applicable, the date of service, the health care provider, and the claim amount;

(b) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for review of an adverse determination pursuant to [sections 10 through 16] or a request for external review as outlined in [sections 17 through 31].

(c) the specific rationale behind the adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in denying the benefit request or claim;

(d) a reference to the specific plan provisions on which the determination is based;

(e) a description of any additional material or information necessary for the covered person or, if applicable, the covered person's authorized representative to complete the request, including an explanation of why the material or information is necessary to complete the request;

(f) a description of the health insurance issuer's internal grievance procedures established pursuant to [sections 10 through 16], including any time limits applicable to those procedures;

(g) a description of the health insurance issuer's expedited grievance procedures established pursuant to [sections 10 through 16], including any time limits applicable to those procedures;

(h) a copy of any internal rule, guideline, protocol, or other similar criteria that the health insurance issuer may have relied on to make the adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the adverse determination and that a copy of the rule, guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request.

(i) an explanation of the scientific or clinical judgment for making the adverse determination if the adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request. The explanation under this subsection (7)(i) must apply the terms of the health plan to the covered person's medical circumstances.

(j) instructions for requesting any of the following that are applicable:

(i) a copy of the rule, guideline, protocol, or other similar criteria relied on in making the adverse determination in accordance with subsection (7)(h); or

(ii) the written statement of the scientific or clinical rationale for the adverse determination in accordance with subsection (7)(i); and

(k) a statement explaining the availability of further assistance from the commissioner's office and the right of the covered person or, if applicable, the covered person's authorized representative to contact the commissioner's office at any time for assistance or, on completion of the health insurance issuer's grievance procedure process as provided under [sections 10 through 16], to file a civil suit in a court of competent jurisdiction. The statement must include contact information for the commissioner's office.

(8) A health insurance issuer shall provide the notice required under this section in the manner provided in [section 5(9)].

(9) (a) A health insurance issuer may provide the notice required under this section orally, in writing, or electronically.

(b) If notice of the adverse determination is provided orally, the health insurance issuer shall provide written or electronic notice of the adverse determination within 3 days following the oral notification.

Section 7. Emergency services. (1) When conducting a utilization review or making a benefit determination for emergency services, a health insurance issuer that provides benefits for services in an emergency department of a hospital shall follow the provisions of this section.

(2) A health insurance issuer shall cover emergency services that screen and stabilize a covered person:

(a) without the need for prior authorization of the emergency services if a prudent lay person would have reasonably believed that an emergency medical condition existed even if the emergency services are provided on an out-of-network basis;

(b) without regard to whether the health care provider furnishing the services is a participating provider with respect to the emergency services;

(c) if the emergency services are provided out-of-network, without imposing any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from network providers;

(d) if the emergency services are provided out-of-network, by complying with the cost-sharing requirements in subsection (4); and

(e) without regard to any other term or condition of coverage, other than:

(i) the exclusion of or coordination of benefits;

(ii) an affiliation or waiting period as permitted under 42 U.S.C. 300gg-19a; or

(iii) cost-sharing, as provided in subsection (4)(a) or (4)(b), as applicable.

(3) For in-network emergency services, coverage of emergency services is subject to applicable copayments, coinsurance, and deductibles.

(4) (a) Except as provided in subsection (4)(b), for out-of-network emergency services, any cost-sharing requirement imposed with respect to a covered person may not exceed the cost-sharing requirement for a covered person if the services were provided in-network.

(b) A covered person may be required to pay, in addition to the in-network cost-sharing expenses, the excess amount the out-of-network provider charges that exceeds the amount the health insurance issuer is required to pay under this subsection (4).

(c) A health insurance issuer complies with the requirements of this section by paying for emergency services provided by an out-of-network provider in an amount not less than the greatest of the following and taking into account exceptions in subsections (4)(d) and (4)(e):

(i) the amount negotiated with in-network providers for emergency services, excluding any in-network cost-sharing imposed with respect to the covered person;

(ii) the amount of the emergency service calculated using the same method the plan uses to determine payments for out-of-network services but using the in-network cost-sharing provisions instead of the out-of-network cost-sharing provisions; or

(iii) the amount that would be paid under medicare for the emergency services, excluding any in-network cost-sharing requirements.

(d) For capitated or other health plans that do not have a negotiated charge for each service for in-network providers, subsection (4)(c)(i) does not apply.

(e) If a health plan has more than one negotiated amount for in-network providers for a particular emergency service, the amount in subsection (4)(c)(i) is the median of those negotiated amounts.

(5) Only in-network cost-sharing amounts may be imposed on out-of-network emergency services.

(6) If prior authorization is required for a postevaluation or poststabilization services review, a health insurance issuer shall provide access to a designated representative 24 hours a day, 7 days a week, to facilitate the review.

Section 8. Confidentiality. A health insurance issuer and its designee shall comply with all applicable state and federal laws establishing confidentiality and reporting requirements with regard to its utilization review program, including the provisions of Title 33, chapter 19, and 45 CFR, parts 160 and 164.

Section 9. Disclosure. (1) In the certificate of coverage and member handbook provided to covered persons, a health insurance issuer shall include a clear and comprehensive description of its utilization review procedures, including the procedures for obtaining review of adverse determinations, and a statement of the rights and responsibilities of covered persons with respect to those procedures.

(2) In the outline of coverage provided to covered persons, a health insurance issuer shall include a statement indicating the section of the member handbook containing the information required in subsection (1).

(3) A health insurance issuer shall print on its membership cards a toll-free telephone number to call for utilization review and benefit determinations.

Section 10. Short title. The provisions of [sections 10 through 31] may be cited as the "Health Insurance Issuer Grievance Procedures and External Review Act".

Section 11. Applicability and scope. (1) Except as provided in subsection (2), [sections 10 through 31] apply to all health insurance issuers.

(2) The provisions of [sections 10 through 31] do not apply to:

(a) a policy or certificate that provides coverage only for a specified disease or specified accident, accident-only coverage, credit insurance as described in 33-1-206, dental, disability income, or hospital indemnity insurance, long-term care insurance as defined in 33-22-1107, vision care insurance, or any other limited supplemental benefit;

(b) a medicare supplement policy as defined in 33-22-903;

(c) coverage under a plan through medicare or medicaid or any coverage issued under Title 10, chapter 55, of the United States Code and any coverage issued as supplemental to that coverage; or

(d) any coverage issued as supplemental to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, or any insurance under which benefits are payable with or without regard to fault, whether written on a group blanket basis or an individual basis.

Section 12. Purpose. The purpose of [sections 10 through 16] is to provide standards for the establishment and maintenance of procedures by health insurance issuers to ensure that covered persons have the opportunity for the appropriate resolution of grievances.

Section 13. Grievance reporting and recordkeeping requirements — definition. (1) (a) A health insurance issuer shall maintain within a register all written records that document grievances received during a calendar year, including the notices and claims associated with the grievances.

(b) For the purposes of this section, "register" means the written record of grievances received by a health insurance issuer that includes the notices and claims associated with the grievances as required by this section.

(2) Retention of the records in the register must be as provided in subsection (6), except that a health insurance issuer shall maintain for at least 6 years those records specified by the commissioner by rule.

(3) A health insurance issuer shall:

(a) maintain the records in a manner that is reasonably clear and accessible to the commissioner; and

(b) make the records available for examination, on request, by covered persons, the commissioner, and any appropriate federal oversight agency.

(4) A request for a review of a grievance involving an adverse determination must be processed in compliance with [section 15] and must be included in the register.

(5) For each grievance, the register must contain, at a minimum, the following information:

(a) a general description of the reason for the grievance;

(b) the date received;

(c) the date of each review or, if applicable, review meeting;

(d) a report on the resolution of the grievance, if applicable;

(e) the date of the resolution, if applicable; and

(f) the name of the covered person for whom the grievance was filed.

(6) Subject to the provisions of subsection (2), a health insurance issuer shall retain the register compiled in a calendar year for 3 years or until the commissioner has adopted a final report of an examination that contains a review of the register for that calendar year, whichever is longer.

(7) (a) At least annually, a health insurance issuer shall submit to the commissioner a report in the format specified by the commissioner.

(b) The report must include for each type of health plan offered by the health insurance issuer:

(i) the certificate of compliance required by [section 14(4)(b)];

(ii) the number of covered persons;

(iii) the total number of grievances;

(iv) the number of grievances resolved, if applicable, and their resolution;

(v) the number of grievances of which the health insurance issuer has been informed that were appealed to the commissioner;

(vi) the number of grievances referred to an alternative dispute resolution procedure or resulting in litigation; and

(vii) a synopsis of actions taken or being taken to correct problems that have been identified.

Section 14. Grievance review procedures. (1) Except as specified in [section 16], a health insurance issuer shall use written procedures for receiving and resolving grievances from covered persons as provided in [section 15].

(2) (a) Whenever a health insurance issuer fails to adhere to the requirements of [section 15 or 16], as applicable, with respect to receiving and resolving grievances involving an adverse determination or waives the review of the grievance, the covered person is considered to have exhausted the provisions of [sections 10 through 16] and may take action under subsection (2)(b).

(b) (i) A covered person may file a request for external review in accordance with the procedures outlined in [sections 17 through 31].

(ii) In addition to filing a request under subsection (2)(b)(i), a covered person is entitled to pursue any available remedies under state or federal law on the basis that the health insurance issuer failed to provide a reasonable internal claims and appeals process that would yield a decision on the merits of the claim.

(3) (a) The provisions of [section 15 or 16] may not be considered exhausted based on a de minimis violation that does not cause and is not likely to cause prejudice or harm to the covered person as long as the health insurance issuer demonstrates that the violation was for good cause or due to matters beyond the control of the health insurance issuer and that the violation occurred in the context of an ongoing, good faith exchange of information between the health insurance issuer and the covered person or, if applicable, the covered person's authorized representative.

(b) The exception provided in subsection (3)(a) does not apply if the violation is part of a pattern or a practice of violations by the health insurance issuer.

(4) A health insurance issuer shall file with the commissioner:

(a) a copy of the procedures required under subsection (1), including all forms used to process requests made pursuant to [section 15]. Any subsequent material modifications to the documents must also be filed.

(b) as part of the annual report required by [section 13(7)], a certificate of compliance stating that the health insurance issuer has established and maintains for each of its health plans a set of grievance procedures that fully comply with the provisions of [sections 10 through 16]; and

(c) a description of the grievance procedures required under this section, which must be included in or attached to the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage provided to covered persons. The grievance procedure documents must include a statement of a covered person's right to contact the commissioner's office for assistance at any time. The statement must include the telephone number and address of the commissioner's office.

(5) The commissioner may disapprove a filing received in accordance with subsection (4) if the filing fails to comply with [sections 10 through 16] or applicable federal regulations.

Section 15. Grievances involving adverse determination. (1) Within 180 days after the date of receipt of a notice of an adverse determination sent pursuant to [sections 1 through 9], a covered person or, if applicable, the covered person's authorized representative may file a grievance with the health insurance issuer requesting a review of the adverse determination.

(2) The health insurance issuer shall provide the covered person or, if applicable, the covered person's authorized representative with the name, address, and telephone number of a person or organizational unit designated to coordinate the review on behalf of the health insurance issuer.

(3) (a) In providing for a review under this section, the health insurance issuer shall ensure that the review meets the requirements of this section and is conducted in a manner that ensures the independence and impartiality of the individuals involved in making the review decision.

(b) To ensure the independence and impartiality of the individuals involved in making the review decision, the health insurance issuer may not make hiring, compensation, termination, promotion, or other similar decisions related to any of those individuals based on the likelihood that the individual will support the denial of benefits.

(4) (a) In the case of an adverse determination involving utilization review, the health insurance issuer shall designate one or more appropriate physicians or health care professionals of the same licensure to review the adverse determination. A physician or health care professional of the same licensure may not have been involved in the initial adverse determination.

(b) In designating an appropriate physician or health care professional of the same licensure pursuant to subsection (4)(a), the health insurance issuer shall ensure that if more than one physician or health care professional of the same licensure is involved in the review, a majority of the individuals reviewing the adverse determination are health care professionals who have appropriate expertise.

(5) In conducting a review under subsection (4), each physician or health care professional of the same licensure shall take into consideration all comments, documents, records, and other information regarding the request for services submitted by the covered person or, if applicable, the covered person's authorized representative without regard to whether the information was submitted or considered in making the initial adverse determination.

(6) (a) A covered person does not have the right to attend or to have a representative in attendance at the review, but the covered person or, if applicable, the covered person's authorized representative is entitled to:

(i) submit written comments, documents, records, and other material relating to the request for benefits for the reviewer or reviewers to consider when conducting the review; and

(ii) receive from the health insurance issuer, on request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the covered person's request for benefits.

(b) For the purposes of subsections (6)(a) and (11)(f)(iii), the term "relevant" in relation to a document, record, or other information related to a covered person's request for benefits means the document, record, or other information:

(i) was relied on in making the benefit determination;

(ii) was submitted, considered, or generated in the course of making the adverse determination without regard to whether the document, record, or other information was relied on in making the benefit determination;

(iii) was used to demonstrate that in making the benefit determination, the health insurance issuer or its designated representatives consistently applied to the covered person the required administrative procedures and safeguards used for other similarly situated covered persons; or

(iv) constituted a statement of policy or guidance with respect to the health plan concerning the denied health care service or treatment for the covered person's diagnosis without regard to whether the advice or statement was relied on in making the benefit determination.

(7) The health insurance issuer shall disclose the provisions of subsection (6) to the covered person or, if applicable, the covered person's authorized representative, in writing:

(a) in the notice of adverse determination that is the subject of the grievance; or

(b) in a separate notice sent within 3 working days after the date of receipt of the grievance.

(8) For the purposes of calculating the time period within which a determination must be made and noticed under subsection (9), the time period begins on the date the request for a grievance review is filed with the health insurance issuer in accordance with the health insurance issuer's procedures for filing requests established pursuant to [section 14] without regard to whether all of the information necessary to make the determination accompanies the filing.

(9) (a) A health insurance issuer shall notify and issue a decision with respect to a grievance requesting a review of an adverse determination involving a prospective review or a retrospective review request. The notification must be in writing or sent electronically to the covered person or, if applicable, the covered person's authorized representative.

(b) The health insurance issuer shall issue a decision and send notification as provided in this section within a reasonable period of time that is appropriate considering the covered person's medical condition but no later than 30 days in the case of a prospective review or 60 days in the case of a retrospective review after the date on which the health insurance issuer received the grievance request for the review made pursuant to subsection (1).

(10) Prior to issuing a decision or final adverse determination in accordance with the timeframe provided in subsection (9) and sufficiently in advance of the required date for a decision or final adverse determination to allow the covered person or, if applicable, the covered person's authorized representative a reasonable opportunity to respond prior to the date of the decision or final adverse determination, the health insurance issuer shall provide free of charge to the covered person or, if applicable, the covered person's authorized representative:

(a) any new or additional relevant evidence relied on or generated by the health insurance issuer or at the health insurance issuer's direction in connection with the grievance; and

(b) in relation to the issuance and notice of a final adverse determination based on new or additional rationale, the new or additional rationale.

(11) The decision issued pursuant to subsection (9) must specify in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative the following:

(a) the titles and qualifying credentials of each physician or health care professional of the same licensure participating in the review process;

(b) information sufficient to identify the claim involved with respect to the grievance, including, as applicable, the date of service, the health care provider, and the claim amount;

(c) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for review of an adverse determination pursuant to [sections 10 through 16] or a request for external review as outlined in [sections 17 through 31].

(d) a statement from the physicians or health care professionals of the same licensure participating in the review of their understanding of the covered person's grievance;

(e) the decision of the physicians or health care professionals of the same licensure conducting the review, provided in clear terms, and the contract basis or medical rationale on which the decision was based, provided in sufficient detail for the covered person or, if applicable, the covered person's authorized representative to respond further to the health insurance issuer's position;

(f) a reference to the evidence or documentation used as the basis for the decision. The information required under this subsection (11)(f) must also

include for a review decision issued pursuant to subsection (9) that upholds an adverse determination:

(i) all specific reasons that uphold the final internal adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in reaching the denial;

(ii) the reference to the specific plan provisions on which the adverse determination is based;

(iii) a statement that the covered person is entitled to receive, on request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the covered person's benefit request;

(iv) a copy of any specific rule, guideline, protocol, or other similar criteria that the health insurance issuer may have relied on to make the final adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the final adverse determination and that a copy of the rule, guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request;

(v) an explanation of the scientific or clinical judgment used for making the adverse determination if the final adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. The explanation must apply the terms of the health plan to the covered person's medical circumstances. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request.

(vi) instructions for requesting all of the following that are applicable:

(A) a copy of the rule, guideline, protocol, or other similar criteria relied on in making the final adverse determination in accordance with subsection (11)(f)(iv); or

(B) the written statement of the scientific or clinical rationale for the final adverse determination in accordance with subsection (11)(f)(v);

(vii) a statement, if applicable, indicating:

(A) a description of the procedures for obtaining an independent external review of the final adverse determination pursuant to [sections 17 through 31]; and

(B) the covered person's right to bring a civil action in a court of competent jurisdiction;

(viii) the following statement, if applicable:

"You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your state insurance commissioner."

(ix) notice of the covered person's right to contact the commissioner's office for further assistance on any claim, grievance, or appeal at any time, including the telephone number and address of the commissioner's office. The notice under this subsection (11)(f)(ix) must be provided in accordance with federal regulations and as provided in [section 5(9)].

Section 16. Expedited review of grievance involving adverse determination. (1) A health insurance issuer shall establish written procedures for the expedited review of urgent care requests of grievances involving an adverse determination.

(2) A health insurance issuer shall provide an expedited review of a grievance involving an adverse determination with respect to a concurrent review of an urgent care request involving an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility. The procedures in subsection (1) must also specify the process for the concurrent review of urgent care requests under this subsection (2).

(3) The procedures under this section must provide that a covered person or, if applicable, the covered person's authorized representative may request an expedited review orally, in writing, or electronically.

(4) On receipt of a request for an expedited review, a health insurance issuer shall appoint one or more physicians or health care professionals of the same licensure to review the adverse determination. An appointed physician or health care professional of the same licensure may not have been involved in making the initial adverse determination.

(5) In an expedited review, all necessary information, including the health insurance issuer's decision, must be transmitted between the health insurance issuer and the covered person or, if applicable, the covered person's authorized representative in the most expeditious method available, whether by telephone, facsimile, or other method.

(6) (a) The timeframe for making a decision under an expedited review and notification, as provided in subsection (8), must be as expeditious as the covered person's medical condition requires but may take no more than 72 hours after the receipt of the request for the expedited review.

(b) If the expedited review is of a grievance involving an adverse determination with respect to a concurrent review urgent care request, the health insurance issuer shall continue the health care service or treatment without liability to the covered person until the covered person has been notified of the determination.

(7) For purposes of calculating the timeframe within which a decision is required to be made under subsection (6), the time period within which the decision must be made begins on the date the request is filed with the health insurance issuer in accordance with the health insurance issuer's procedures for filing requests established under [section 14] without regard to whether all of the information necessary to make the determination accompanies the filing.

(8) A notification of a decision under this section must be in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative and, if necessary, meet the requirements of subsection (9). The notification must include:

(a) the titles and qualifying credentials of each physician or health care professional of the same licensure participating in the expedited review process;

(b) information sufficient to identify the claim involved with respect to the grievance, including the date of service, the health care provider, and, if applicable, the claim amount;

(c) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for external review as outlined in [sections 17 through 31].

(d) a statement from the physicians or health care professionals of the same licensure participating in the review of their understanding of the covered person's grievance;

(e) a description in clear terms of the decision of the physicians or health care professionals of the same licensure and the contract basis or medical rationale in sufficient detail for the covered person to respond further to the health insurance issuer's position;

(f) a reference to the evidence or documentation used as the basis for the decision. If the decision involves an adverse determination, the notice must provide:

(i) all specific reasons for the adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in reaching the denial;

(ii) the reference to the specific plan provisions on which the determination is based;

(iii) if the adverse determination is based on incomplete documentation, a description of any additional material or information necessary for the covered person to complete the request, including an explanation of why the material or information is necessary to complete the request;

(iv) a copy of any internal rule, guideline, protocol, or other similar criteria if relied on by the health insurance issuer to make the adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the adverse determination and that a copy of the rule, guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request.

(v) an explanation of the scientific or clinical judgment used for making the adverse determination if the adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. The explanation must apply the terms of the health plan to the covered person's medical circumstances. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request.

(vi) instructions for requesting any of the following that are applicable:

(A) a copy of the rule, guideline, protocol, or other similar criteria relied on in making the adverse determination in accordance with subsection (8)(f)(iv); or

(B) the written statement of the scientific or clinical rationale for the adverse determination in accordance with subsection (8)(f)(v);

(vii) a statement describing the procedures for obtaining an independent external review of the adverse determination pursuant to [sections 17 through 31];

(viii) the following statement, if applicable:

"You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your state insurance commissioner."

(ix) a statement indicating the covered person's right to bring a civil action in a court of competent jurisdiction; and

(x) a notice of the covered person's right to contact the commissioner's office for assistance at any time, including the telephone number and address of the commissioner's office.

(9) The notice under subsection (8)(f) must be provided in accordance with federal regulations and as provided in [section 5(9)].

(10) (a) A health insurance issuer may provide the notice required under this section orally, in writing, or electronically.

(b) If notice of the adverse determination is provided orally, the health insurance issuer shall provide written or electronic notice of the adverse determination within 3 days after the oral notification.

Section 17. Purpose. The purpose of [sections 17 through 31] is to provide uniform standards for the establishment and maintenance of external review procedures to ensure that covered persons have the opportunity for an independent review of an adverse determination or a final adverse determination.

Section 18. Definitions for external review. For the purposes of [sections 17 through 31], the following definitions apply:

(1) "Adverse determination" means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service that is a covered benefit has been reviewed and, based on the information provided, does not meet the health insurance issuer's requirements for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness and as a result the requested service or payment for the service has been denied, reduced, or terminated.

(2) "Best evidence" means evidence based on:

(a) randomized clinical trials;

(b) a cohort study or case-control study if randomized clinical trials are not available;

(c) a case series if information as provided in subsection (2)(a) or (2)(b) is unavailable; or

(d) an expert opinion if information as provided subsection (2)(a), (2)(b), or (2)(c) is unavailable.

(3) "Case-control study" means a retrospective evaluation of two groups of patients with different outcomes to determine which specific interventions the patients received.

(4) "Case series" means an evaluation of a series of patients with a particular outcome, without the use of a control group.

(5) "Cohort study" means a prospective evaluation of two groups of patients with only one group of patients receiving a specific intervention.

(6) "Disclose" means to release, transfer, or otherwise divulge protected health information to any person other than the individual who is the subject of the protected health information.

(7) "Evidence-based standard" means the conscientious, explicit, and judicious use of the current best evidence based on the overall systematic review of the research in making decisions about the care of individual patients.

(8) "Expert opinion" means a belief or an interpretation by specialists with experience in a specific area about the scientific evidence pertaining to a particular service, intervention, or therapy.

(9) "Health information" means information or data, whether oral or recorded in any form or medium, including personal facts or information about events or relationships that relate to:

(a) the past, present, or future physical, mental, or behavioral health or condition of a covered person or a member of the covered person's family;

(b) the provision of health care services to a covered person; or

(c) payment for the provision of health care services to a covered person.

(10) "Independent review organization" means an entity that conducts independent external reviews of adverse determinations and final adverse determinations.

(11) "Medical or scientific evidence" means evidence found in the following sources:

(a) peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(b) peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia, and other medical literature that meet the criteria of the national institutes of health's library of medicine for indexing in Index Medicus and Excerpta Medica, published by the Reed Elsevier group;

(c) medical journals recognized by the secretary of health and human services under 42 U.S.C. 1395x(t)(2)(B) of the federal Social Security Act;

(d) the following standard reference compendia:

(i) the American Hospital Formulary Service Drug Information;

(ii) Drug Facts and Comparisons;

(iii) the American Dental Association Guide to Dental Therapeutics; and

(iv) the United States Pharmacopeia;

(e) findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

(i) the federal agency for healthcare research and quality;

(ii) the national institutes of health;

(iii) the national cancer institute;

(iv) the national academy of sciences;

(v) the centers for medicare and medicaid services;

(vi) the food and drug administration; and

(vii) any national board recognized by the national institutes of health for the purpose of evaluating the medical value of health care services; or

(f) any other medical or scientific evidence that is comparable to the sources listed in subsection (11)(d) or (11)(e).

(12) "NAIC" means the national association of insurance commissioners.

(13) "Protected health information" means health information:

(a) that identifies an individual who is the subject of the information; or

(b) with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(14) "Randomized clinical trial" means a controlled, prospective study of patients who have been assigned at random to an experimental group or a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention. The term includes a study of the groups for variables and anticipated outcomes over time.

Section 19. Notice of right to external review. (1) A health insurance issuer shall:

(a) notify the covered person or, if applicable, the covered person's authorized representative in writing of the covered person's right to request an external review pursuant to [section 22, 23, or 24]; and

(b) include the appropriate statements and information described in subsection (4) at the same time that the health insurance issuer sends written notice of:

(i) an adverse determination upon completion of the health insurance issuer's utilization review process described in [sections 1 through 9]; and

(ii) a final adverse determination.

(2) The health insurance issuer shall include in the written notice required under subsection (1) the following, or substantially equivalent, language:

"We have denied your request for the provision of or payment for a health care service or course of treatment. You have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or level of effectiveness of the health care service or treatment you requested. You may exercise this right by submitting a request for external review to us [insert address and telephone number of the unit of the health insurance issuer that administers the external review program]."

(3) (a) The commissioner may prescribe the form and content of the notice required under this section.

(b) The notice must also include the following information:

(i) information sufficient to identify the claim involved, including the date of service, the health care provider, and, if applicable, the claim amount; and

(ii) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request for an external review as outlined in [sections 17 through 31].

(4) The health insurance issuer shall include in the notice required under subsection (1) a statement that:

(a) for a notice related to an adverse determination:

(i) the covered person or, if applicable, the covered person's authorized representative may file a grievance under the health insurance issuer's internal grievance process provided for in [section 15];

(ii) if the health insurance issuer has not issued a written decision to the covered person or the covered person's authorized representative within the time period provided in [section 15 or 16], as applicable, after the date the covered person or the covered person's authorized representative files the grievance with the health insurance issuer and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to [section 20]. Under those conditions, the covered person or the covered person's authorized

representative is considered to have exhausted the health insurance issuer's internal grievance process for the purposes of [section 14].

(iii) the covered person or the covered person's authorized representative may file a request for an expedited external review to be conducted pursuant to [section 23 or 24], as applicable, under the following circumstances:

(A) a review under [section 23] may be requested if the covered person has a medical condition with regard to which the timeframe for completion of an expedited grievance review of an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; and

(B) a review under [section 24] may be requested if the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating health care provider certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated. The physician's certification must be submitted at the same time that the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination. However, the independent review organization assigned to conduct the expedited external review is responsible for determining whether the covered person is required to complete the expedited review of the grievance before the expedited external review can begin.

(iv) informs the covered person or the covered person's authorized representative of the other exhaustion methods listed in [section 21];

(b) for a notice related to a final adverse determination, the covered person or the covered person's authorized representative may file a request for:

(i) an expedited external review under [section 23] if the covered person has a medical condition for which the timeframe for completion of a standard external review under [section 22] would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function;

(ii) an expedited external review under [section 23] if the covered person has received emergency services and has not been discharged from a facility and the request concerns an admission, the availability of care, a continued stay, or a health care service for which the covered person received emergency services;

(iii) a standard external review under [section 24] if the denial of coverage was based on a determination that the recommended or requested health care service or treatment is experimental or investigational; or

(iv) an expedited external review under [section 24] if a covered person to which subsection (4)(b)(iii) applies attaches a written certification from the covered person's treating health care provider that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

(5) In addition to the information to be provided in subsections (1) and (2), the health insurance issuer shall:

(a) include a description of both the standard and the expedited external review procedures as required by the disclosure requirements under [section 31], highlighting the provisions in the external review procedures that give the covered person or, if applicable, the covered person's authorized representative

the opportunity to submit additional information and including any forms used to process an external review; and

(b) state that the commissioner's office is available to assist covered persons with the external review process. This statement must include the commissioner's contact information.

(6) Among the forms provided under this section, the health insurance issuer shall include an authorization form or other document approved by the commissioner that complies with the requirements of 45 CFR 164.508 and 33-19-206, by which the covered person, for purposes of conducting an external review under [sections 17 through 31], authorizes the health insurance issuer and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person for the purposes of the external review.

Section 20. Request for external review. (1) Except for a request for an expedited external review provided for in [section 23], all requests for an external review must be made in writing to the health insurance issuer.

(2) A request for expedited external review may be made by telephone or in another expeditious manner.

(3) The commissioner may prescribe the form and content of external review requests submitted under this section.

(4) A covered person or, if applicable, the covered person's authorized representative may make a request for an external review of an adverse determination or a final adverse determination.

Section 21. Exhaustion of internal grievance process. (1) Except as provided in subsections (2), (4), (5), and (6), a request for an external review pursuant to [section 22, 23, or 24] may not be made until the covered person has exhausted the health insurance issuer's internal grievance process provided for in [sections 10 through 16].

(2) For the purposes of this section, a covered person is considered to have exhausted the health insurance issuer's internal grievance process if the covered person or, if applicable, the covered person's authorized representative:

(a) has filed a grievance involving an adverse determination pursuant to [section 15]; and

(b) has not received a written decision on the grievance from the health insurance issuer within the time period provided in [section 15 or 16], as applicable, from the date the covered person or the covered person's authorized representative filed the grievance with the health insurance issuer except to the extent the covered person or the covered person's authorized representative requested or agreed to a delay.

(3) Except as provided in subsection (2), a covered person or, if applicable, the covered person's authorized representative may not request an external review of an adverse determination involving a retrospective review determination made pursuant to [sections 10 through 16] until the covered person has exhausted the health insurance issuer's internal grievance process.

(4) (a) At the same time a covered person or, if applicable, the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination under [section 15], the covered person or the covered person's authorized representative may file a request for an expedited external review of the adverse determination:

(i) under [section 23] if the covered person has a medical condition for which the timeframe for completion of an expedited review of the grievance involving

an adverse determination provided for in [section 15] would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; or

(ii) under [section 24] if the adverse determination involves a denial of coverage based on a determination that:

(A) the recommended or requested health care service or treatment is experimental or investigational; and

(B) the covered person's treating health care provider certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated.

(b) On receipt of a request for an expedited external review under subsection (4)(a), the independent review organization conducting the external review as provided under [section 23 or 24] shall determine whether the covered person must be required to complete the expedited review process for grievances provided for in [section 16] before an expedited external review can be conducted.

(c) Upon a determination made pursuant to subsection (4)(b) that the covered person must first be required to complete the expedited grievance review process provided for in [section 16], the independent review organization shall immediately notify the covered person or, if applicable, the covered person's authorized representative of this determination. The notification also must state that the independent review organization will not proceed with the expedited external review under [section 23] until:

(i) the expedited grievance review process under [section 16] is completed; and

(ii) the covered person's grievance at the completion of the expedited grievance review process remains unresolved.

(5) A request for an external review of an adverse determination may be made before the covered person has exhausted the health insurance issuer's internal grievance procedures as provided in [section 14] whenever the health insurance issuer agrees to waive the exhaustion requirement.

(6) If the requirement to exhaust the health insurance issuer's internal grievance procedures is waived under subsection (5), the covered person or, if applicable, the covered person's authorized representative may file a request in writing for a review under [section 22 or 24], as applicable.

Section 22. Standard external review. (1) Within 4 months after the date of receipt of a notice of an adverse determination or a final adverse determination pursuant to [section 19], a covered person or, if applicable, the covered person's authorized representative may file a request for an external review with the health insurance issuer.

(2) Within 5 business days after the date of receipt of the external review request, the health insurance issuer shall complete a preliminary review of the request to determine whether:

(a) the individual is or was a covered person in the health plan at the time the health care service or treatment was requested or, in the case of a retrospective review, was a covered person in the health plan at the time the health care service or treatment was provided;

(b) the health care service or treatment that is the subject of the adverse determination or the final adverse determination is a covered service under the covered person's health plan but is not covered because of a determination by

the health insurance issuer that the health care service or treatment does not meet the health insurance issuer's requirements for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness;

(c) the covered person has exhausted the health insurance issuer's internal grievance process as set forth in [sections 10 through 16] or the covered person is exempt under [section 14(2)]; and

(d) the covered person or the covered person's authorized representative has provided all of the information and forms required to process an external review.

(3) (a) Within 1 business day after completion of the preliminary review, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative in writing as to whether:

(i) the request is complete; and

(ii) the request is eligible for external review.

(b) (i) If the request is not complete, the health insurance issuer shall inform the covered person or, if applicable, the covered person's authorized representative in writing and include in the notice the information or materials that are needed to make the request complete.

(ii) If the request is not eligible for external review, the health insurance issuer shall inform the covered person or, if applicable, the covered person's authorized representative in writing and include in the notice the reasons for the request's ineligibility.

(4) (a) The commissioner may specify the form for the health insurance issuer's notice of initial determination under subsection (3) and any supporting information to be included in the notice.

(b) The notice of initial determination provided under subsection (3) must include a statement informing the covered person or, if applicable, the covered person's authorized representative of the right to appeal to the commissioner a health insurance issuer's initial determination that the external review request is ineligible for review.

(5) (a) If the commissioner receives an appeal under subsection (4), the commissioner may require a referral for external review, notwithstanding a health insurance issuer's initial determination that the request is ineligible.

(b) A determination by the commissioner under subsection (5)(a) must be based on the terms of the covered person's health plan and all applicable provisions of [sections 1 through 31].

(6) (a) If the request is eligible for external review, the health insurance issuer shall within 1 business day assign an independent review organization on a random basis, or using another method of assignment that ensures the independence and impartiality of the assignment process, from the list of approved independent review organizations compiled and maintained by the commissioner pursuant to [section 26] to conduct the external review.

(b) In making the assignment, the health insurance issuer shall consider whether an independent review organization is qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination or final adverse determination.

(c) The health insurance issuer shall also take into account other circumstances, including conflict of interest concerns pursuant to [section 27(4)].

(7) The assigned independent review organization, in reaching its decision, is not bound by any decisions or conclusions reached during the health insurance issuer's utilization review process set forth in [sections 1 through 9] or the health insurance issuer's internal grievance process set forth in [sections 10 through 16].

(8) Within 1 business day of assigning an independent review organization pursuant to subsection (6), the health insurance issuer shall notify, in writing, the covered person or, if applicable, the covered person's authorized representative that the health insurance issuer initiated an external review.

(9) The health insurance issuer shall include in the notice provided to the covered person or, if applicable, the covered person's authorized representative a statement that the covered person or the covered person's authorized representative may submit in writing to the assigned independent review organization within 10 business days following the date of receipt of the notice provided pursuant to subsection (8) any additional information for the independent review organization to consider when conducting the external review. The independent review organization shall accept and consider information submitted within 10 business days after the date of receipt of the notice and may accept and consider additional information submitted after the 10 business days.

(10) Within 5 business days after assigning an independent review organization pursuant to subsection (6), the health insurance issuer or its designated utilization review organization shall provide to the assigned independent review organization the medical records, documents, and any information used in making the adverse determination or final adverse determination.

(11) Except as provided in subsection (12), failure by the health insurance issuer or its designated utilization review organization to provide the documents and information within the time specified in subsection (10) may not delay the conduct of the external review.

(12) (a) If the health insurance issuer or its designated utilization review organization fails to provide the documents and information within the time specified in subsection (10), the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination.

(b) Within 1 business day after making a decision under subsection (12)(a), the independent review organization shall notify the covered person or, if applicable, the covered person's authorized representative as well as the health insurance issuer.

(13) If the provisions of subsection (12) do not apply, the assigned independent review organization shall review all of the information and documents received pursuant to subsection (10) and any other information submitted in writing to the independent review organization by the covered person or, if applicable, the covered person's authorized representative pursuant to subsection (9).

(14) On receipt of any information submitted by the covered person or, if applicable, the covered person's authorized representative pursuant to subsection (9), the assigned independent review organization shall within 1 business day after receipt forward the information to the health insurance issuer.

(15) On receipt of the information, if any, forwarded as provided in subsection (14), the health insurance issuer may reconsider its adverse determination or final adverse determination that is the subject of the external review.

(16) Reconsideration by the health insurance issuer of its adverse determination or final adverse determination pursuant to subsection (15) may not delay or terminate the external review.

(17) The external review may be terminated only if the health insurance issuer decides, on completion of its reconsideration, to reverse its adverse determination or final adverse determination and provide coverage or payment for the health care service or treatment that is the subject of the adverse determination or final adverse determination.

(18) (a) Within 1 business day after making a decision to reverse its adverse determination or final adverse determination, as provided in subsection (17), the health insurance issuer shall notify the following in writing of its decision:

(i) the covered person or, if applicable, the covered person's authorized representative; and

(ii) the assigned independent review organization.

(b) The assigned independent review organization shall terminate the external review on receipt of the notice from the health insurance issuer sent pursuant to subsection (18)(a).

(19) In addition to the documents and information provided pursuant to subsection (10), the assigned independent review organization shall consider the following information and documents in making a decision, to the extent the information or documents are available:

(a) the covered person's medical records;

(b) the attending health care professional's recommendation;

(c) consulting reports from appropriate health care professionals and other documents submitted by the health insurance issuer, the covered person, the covered person's authorized representative, or the covered person's treating health care provider;

(d) the terms of coverage under the covered person's health plan with the health insurance issuer to ensure that the independent review organization's decision is not contrary to the terms of coverage under the covered person's health plan with the health insurance issuer;

(e) the most appropriate practice guidelines, which must include generally accepted practice guidelines, evidence-based standards, or any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations;

(f) any applicable clinical review criteria developed and used by the health insurance issuer or its designated utilization review organization; and

(g) the opinion of the independent review organization's clinical peer after considering the provisions of subsections (19)(a) through (19)(f) to the extent the information or documents are available.

(20) Within 45 days after the date of receipt of the request for an external review, the assigned independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or the final adverse determination to:

(a) the covered person or, if applicable, the covered person's authorized representative; and

(b) the health insurance issuer.

(21) The independent review organization shall include in the notice sent pursuant to subsection (20):

(a) a general description of the reason for the request for the external review;

(b) the date the independent review organization received the assignment from the health insurance issuer to conduct the external review;

(c) the time period over which the external review was conducted;

(d) the date of the independent review organization's decision;

(e) the principal reasons for the decision;

(f) the rationale for the decision; and

(g) references to the evidence or documentation, including the evidence-based standards, considered in reaching the decision.

(22) If a notice of a decision under subsection (20) reverses the adverse determination or final adverse determination, the health insurance issuer shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination.

Section 23. Expedited external review. (1) Except as provided in subsection (12), a covered person or, if applicable, the covered person's authorized representative may request an expedited external review with the health insurance issuer at the time the covered person receives:

(a) an adverse determination if:

(i) the adverse determination involves a medical condition of the covered person for which the timeframe for completion of an expedited internal review of a grievance involving an adverse determination under [section 16] would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; and

(ii) the covered person or the covered person's authorized representative has filed a request for an expedited review of a grievance involving an adverse determination as provided in [section 16]; or

(b) a final adverse determination if:

(i) the covered person has a medical condition for which the timeframe for completion of a standard external review pursuant to [section 22] would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; or

(ii) the final adverse determination concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services but has not been discharged from a facility.

(2) (a) On receipt of the request pursuant to subsection (1), the health insurance issuer shall immediately determine whether the request meets the review requirements under [section 22(2)].

(b) The health insurance issuer shall immediately notify the covered person or, if applicable, the covered person's authorized representative of its eligibility determination.

(3) (a) The commissioner may specify the form for the health insurance issuer's notice of initial determination under subsection (2)(b) and any supporting information to be included in the notice.

(b) The notice of initial determination under subsection (2)(b) must include a statement informing the covered person or, if applicable, the covered person's authorized representative of the right to appeal to the commissioner a health

insurance issuer's initial determination that the external review request is ineligible for review. The notice must also provide contact information for the commissioner's office.

(4) (a) The commissioner may determine that a request is eligible for external review under [section 22(5)] and require a referral for external review, notwithstanding a health insurance issuer's initial determination that the request is ineligible.

(b) A determination by the commissioner under subsection (4)(a) must be based on the terms of the covered person's health plan and all applicable provisions of [sections 1 through 31].

(5) (a) If the request is eligible for external review, the health insurance issuer shall immediately assign an independent review organization on a random basis, or using another method of assignment that ensures the independence and impartiality of the assignment process, from the list of approved independent review organizations compiled and maintained by the commissioner pursuant to [section 26] to conduct the review.

(b) In making the assignment, the health insurance issuer shall consider whether an independent review organization is qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination or final adverse determination.

(c) The health insurance issuer shall also take into account other circumstances, including conflict of interest concerns pursuant to [section 27(4)].

(6) In reaching a decision as provided in subsection (9), the assigned independent review organization is not bound by any decisions or conclusions reached during the health insurance issuer's utilization review process, as provided in [sections 1 through 9], or the health insurance issuer's internal grievance process provided in [sections 10 through 16].

(7) Upon assigning an independent review organization, the health insurance issuer or its designated utilization review organization shall provide or transmit all necessary documents and information used in making the adverse determination or final adverse determination to the assigned independent review organization electronically or by telephone or facsimile or any other available expeditious method.

(8) In addition to the documents and information provided under subsection (7), the assigned independent review organization, to the extent the information or documents are available, shall consider the documents listed in [section 22(19)] in reaching a decision.

(9) (a) As expeditiously as the covered person's medical condition or circumstances require but no more than 72 hours after receiving the request for an expedited external review that meets the review requirements set forth in [section 22(2)], the assigned independent review organization shall:

(i) decide whether to uphold or reverse the adverse determination or final adverse determination; and

(ii) notify the covered person or, if applicable, the covered person's authorized representative as well as the health insurance issuer of the decision.

(b) If the notice required under subsection (9)(a) was not provided in writing, the assigned independent review organization shall within 48 hours after the date of providing the notice:

(i) provide written confirmation of the decision to the covered person or, if applicable, the covered person's authorized representative as well as to the health insurance issuer; and

(ii) include the information required in [section 22(21)].

(10) On receipt of the notice regarding a decision reversing the adverse determination or final adverse determination, the health insurance issuer shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination.

(11) An expedited external review may not be provided for retrospective adverse or retrospective final adverse determinations.

Section 24. External review of adverse determinations for experimental or investigational treatment — expedited external review. (1) Within 4 months after the date when a covered person or, if applicable, the covered person's authorized representative receives notice pursuant to [section 19] of an adverse determination or final adverse determination that involves a denial of coverage because a health insurance issuer determined that the health care service or treatment recommended or requested is experimental or investigational, the covered person or the covered person's authorized representative may file a request for an external review with the health insurance issuer.

(2) (a) A covered person or, if applicable, the covered person's authorized representative may make an oral request for an expedited external review of the adverse determination or final adverse determination pursuant to subsection (1) if the covered person's treating health care provider certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

(b) (i) Upon receipt of a request for an expedited external review, the health insurance issuer shall immediately determine and notify the covered person or, if applicable, the covered person's authorized representative whether the request meets the review requirements of subsection (4).

(ii) The commissioner may specify the form for the health insurance issuer's notice of initial determination under subsection (2)(b)(i) and any supporting information to be included in the notice.

(iii) The notice of initial determination under subsection (2)(b)(i) must include a statement informing the covered person or, if applicable, the covered person's authorized representative of the right to appeal to the commissioner a health insurance issuer's initial determination that the external review request is ineligible for review. The notice must also provide contact information for the commissioner's office.

(c) (i) The commissioner may determine that a request is eligible for external review under [section 20] or subsection (4) of this section and may require a referral for external review, notwithstanding a health insurance issuer's initial determination that the request is ineligible.

(ii) A determination by the commissioner under subsection (2)(c)(i) must be based on the terms of the covered person's health plan and all applicable provisions of [sections 1 through 31].

(d) (i) If the request is eligible for expedited external review, the health insurance issuer shall immediately assign an independent review organization on a random basis, or using another method of assignment that ensures the independence and impartiality of the assignment process, from the list of

approved independent review organizations compiled and maintained by the commissioner pursuant to [section 26] to conduct the external review.

(ii) In making the assignment, the health insurance issuer shall consider whether an independent review organization is qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination or final adverse determination.

(iii) The health insurance issuer shall also take into account other circumstances, including conflict of interest concerns pursuant to [section 27(4)].

(e) Upon assigning an independent review organization, the health insurance issuer or its designated utilization review organization shall provide or transmit to the assigned independent review organization electronically, by telephone, by facsimile, or by any other available expeditious method all necessary documents and information used in making the adverse determination or final adverse determination.

(3) Upon receipt of a request for standard external review, the health insurance issuer shall, within 5 business days, determine whether the request meets the eligibility requirements of subsection (4).

(4) In accordance with the timeframes in subsections (2)(b) and (3), the health insurance issuer shall conduct and complete a preliminary review of the request to determine whether:

(a) the individual is or was a covered person in the health plan at the time the health care service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in the health plan at the time the health care service or treatment was provided;

(b) the recommended or requested health care service or treatment that is the subject of the adverse determination or final adverse determination:

(i) is a covered benefit under the covered person's health plan except for the health insurance issuer's determination that the service or treatment is experimental or investigational for a particular medical condition; and

(ii) is not explicitly listed as an excluded benefit under the covered person's health plan;

(c) the covered person's treating health care provider has certified that one of the following situations is applicable:

(i) standard health care services or treatments have not been effective in improving the condition of the covered person;

(ii) standard health care services or treatments are not medically appropriate for the covered person; or

(iii) there is no available standard health care service or treatment covered by the health insurance issuer that is more beneficial than the recommended or requested health care service or treatment described in subsection (4)(d);

(d) (i) the covered person's treating health care provider has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments; or

(ii) a physician who is licensed, board-certified, or eligible to take the examination to become board-certified and is qualified to practice in the area of medicine appropriate to treat the covered person's condition has certified in writing that scientifically valid studies using accepted protocols demonstrate

that the health care service or treatment requested by the covered person who is subject to the adverse determination or final adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments; and

(e) the covered person has exhausted the health insurance issuer's internal grievance process provided in [sections 10 through 16] or the covered person is exempt under [section 14(2)].

(5) (a) Within 1 business day after completion of the preliminary review, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative in writing as to whether:

(i) the request is complete; and

(ii) the request is eligible for external review.

(b) (i) If the request is not complete, the health insurance issuer shall inform the covered person or, if applicable, the covered person's authorized representative in writing and include in the notice the information or materials that are needed to make the request complete.

(ii) If the request is not eligible for external review, the health insurance issuer shall inform the covered person or, if applicable, the covered person's authorized representative in writing and include in the notice the reasons for the request's ineligibility.

(6) (a) The commissioner may specify the form for the health insurance issuer's notice of initial determination under subsection (5) and any supporting information to be included in the notice.

(b) The notice of initial determination provided under subsection (5) must include a statement informing the covered person or, if applicable, the covered person's authorized representative of the right to appeal to the commissioner a health insurance issuer's initial determination that the external review request is ineligible for review. The notice must also provide contact information for the commissioner's office.

(7) If a request for external review is determined eligible for external review, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative.

(8) (a) If the request is eligible for external review, the health insurance issuer shall within 1 business day assign an independent review organization on a random basis, or using another method of assignment that ensures the independence and impartiality of the assignment process, from the list of approved independent review organizations compiled and maintained by the commissioner pursuant to [section 26] to conduct the external review.

(b) In making the assignment, the health insurance issuer shall consider whether an independent review organization is qualified to conduct the particular external review based on the nature of the health care service or treatment that is the subject of the adverse determination or final adverse determination.

(c) The health insurance issuer shall also take into account other circumstances, including conflict of interest concerns pursuant to [section 27(4)].

(9) Within 1 business day of assigning an independent review organization pursuant to subsection (2)(d) or (8), the health insurance issuer shall notify in writing the covered person or, if applicable, the covered person's authorized representative that the health insurance issuer initiated an external review.

(10) The health insurance issuer shall include in the notice provided to the covered person or, if applicable, the covered person's authorized representative a statement that the covered person or, if applicable, the covered person's authorized representative may submit in writing to the assigned independent review organization within 10 business days following the date of receipt of the notice provided pursuant to subsection (9) any additional information for the independent review organization to consider when conducting the external review. The independent review organization shall accept and consider information submitted within 10 business days after the date of receipt of the notice and may accept and consider additional information submitted after the 10 business days.

(11) Within 1 business day after the receipt of the notice of assignment to conduct the external review pursuant to subsection (9), the assigned independent review organization shall:

(a) select a clinical peer, or multiple peers if medically appropriate under the circumstances, to conduct the external review; and

(b) make a decision, based on the opinion of the clinical peers, to uphold or reverse the adverse determination or final adverse determination.

(12) (a) In selecting clinical peers to conduct the external review, the assigned independent review organization shall select physicians or other health care providers who meet the minimum qualifications described in [section 27] and who, through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment.

(b) The choice of the physicians or other health care providers to conduct the external review may not be made by the covered person, the covered person's authorized representative, if applicable, or the health insurance issuer.

(13) (a) In accordance with subsection (20), each clinical peer shall provide a written opinion to the assigned independent review organization on whether the recommended or requested health care service or treatment should be covered.

(b) In reaching an opinion, clinical peers are not bound by any decisions or conclusions reached during the health insurance issuer's utilization review process provided for in [sections 1 through 9] or in the health insurance issuer's internal grievance process provided for in [sections 10 through 16].

(14) (a) Within 5 business days after assigning an independent review organization pursuant to subsection (9), the health insurance issuer or its designated utilization review organization shall provide to the assigned independent review organization any documents and information considered in making the adverse determination or the final adverse determination.

(b) Except as provided in subsection (15), failure by the health insurance issuer or its designated utilization review organization to provide the documents and information within the time specified in subsection (14)(a) may not delay the conduct of the external review.

(15) (a) If the health insurance issuer or its designated utilization review organization fails to provide the documents and information within the time specified in subsection (14)(a), the assigned independent review organization may terminate the external review and decide to reverse the adverse determination or final adverse determination.

(b) Immediately upon making the determination under subsection (15)(a), the independent review organization shall notify the covered person or, if

applicable, the covered person's authorized representative, the health insurance issuer, and the commissioner.

(16) On receipt of any information submitted by the covered person or, if applicable, the covered person's authorized representative pursuant to subsection (10), the assigned independent review organization shall, within 1 business day after the receipt of the information, forward the information to the health insurance issuer.

(17) (a) On receipt of the information required to be forwarded pursuant to subsection (16), the health insurance issuer may reconsider its adverse determination or final adverse determination that is the subject of the external review.

(b) Reconsideration by the health insurance issuer of its adverse determination or final adverse determination pursuant to subsection (17)(a) may not delay or terminate the external review.

(18) (a) The external review may be terminated only if the health insurance issuer decides, on completion of its reconsideration, to reverse its adverse determination or final adverse determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the adverse determination or final adverse determination.

(b) Immediately upon making the decision to reverse its adverse determination or final adverse determination, as provided in subsection (18)(a), the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative, the assigned independent review organization, and the commissioner in writing of its decision.

(c) The assigned independent review organization shall terminate the external review on receipt of the notice from the health insurance issuer pursuant to subsection (18)(b).

(19) Each clinical peer selected pursuant to subsection (12) shall review all of the information and documents received pursuant to subsection (14) and any other information submitted in writing by the covered person or, if applicable, the covered person's authorized representative pursuant to subsection (10).

(20) (a) Except as provided in subsection (20)(c), within 20 days after being selected in accordance with subsection (12) to conduct the external review, each clinical peer shall provide an opinion to the assigned independent review organization pursuant to subsection (21) on whether the recommended or requested health care service or treatment should be covered.

(b) Except for an opinion provided pursuant to subsection (20)(c), each clinical peer's opinion must be in writing and must include the following information:

(i) a description of the covered person's medical condition;

(ii) a description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is more likely than not to be more beneficial to the covered person than any available standard health care services or treatments and that the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

(iii) a description and analysis of any medical or scientific evidence considered in reaching the opinion;

(iv) a description and analysis of any evidence-based standard; and

(v) information on whether the clinical peer's rationale for the opinion is based on subsection (21)(a) or (21)(b).

(c) (i) For an expedited external review, each clinical peer shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances require but no later than 5 calendar days after the clinical peer was selected in accordance with subsection (12).

(ii) If the opinion provided pursuant to subsection (20)(c)(i) was not in writing, the clinical peer shall provide to the assigned independent review organization written confirmation of the opinion within 48 hours after the date the opinion was delivered and include the information required under subsection (20)(b).

(21) In addition to the documents and information provided under this section, each clinical peer selected pursuant to subsection (12) shall consider the following information in reaching an opinion as required in subsection (20) to the extent that the information is available and the clinical peer considers the information to be appropriate:

(a) the covered person's pertinent medical records;

(b) the attending physician's or health care professional's recommendation;

(c) consulting reports from appropriate health care professionals and other documents submitted by the health insurance issuer, the covered person, the covered person's authorized representative, or the covered person's treating physician or health care provider;

(d) the terms of coverage under the covered person's health plan with the health insurance issuer. The terms of coverage must be analyzed to ensure that, except for the health insurance issuer's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or investigational, the clinical peer's opinion is not contrary to the terms of coverage under the covered person's health benefit plan with the health insurance issuer; and

(e) whether:

(i) the recommended or requested health care service or treatment has been approved by the food and drug administration, if applicable, for the condition;

(ii) the recommended or requested health care service or treatment is typically covered by other insurers or payers, such as medicare; or

(iii) medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely than not to be more beneficial to the covered person than any available standard health care service or treatment and that the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

(22) (a) Except as provided in subsection (22)(b), within 20 days after the date of receiving the opinion of each clinical peer pursuant to subsection (20), the assigned independent review organization shall make a decision and provide written notice of the decision to the covered person or, if applicable, the covered person's authorized representative as well as the health insurance issuer and the commissioner.

(b) (i) For an expedited external review, within 48 hours after the date of receiving the opinion of each clinical peer pursuant to subsection (20), the assigned independent review organization, in accordance with subsection

(22)(c), shall make a decision and provide notice of the decision orally or in writing to the recipients listed in subsection (22)(a).

(ii) If the notice provided under subsection (22)(b)(i) was not in writing, within 48 hours after the date of providing that notice the assigned independent review organization shall provide written confirmation of the decision to the recipients listed in subsection (22)(a) and include the information set forth in subsection (22)(d).

(c) (i) If a majority of the clinical peers respond that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health insurance issuer's adverse determination or final adverse determination.

(ii) If a majority of the clinical peers respond that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health insurance issuer's adverse determination or final adverse determination.

(iii) If the clinical peers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical peer to help the independent review organization make a decision based on the opinions of a majority of the clinical peers pursuant to subsections (22)(c)(i) or (22)(c)(ii).

(iv) The additional clinical peer selected under (22)(c)(iii) shall use the same information to reach an opinion as used by the clinical peers who have already submitted their opinions pursuant to subsection (20).

(v) The selection of the additional clinical peer under subsection (22)(c)(iii) may not extend the time within which the assigned independent review organization is required to make a decision based on the opinions of the clinical peers.

(d) The independent review organization shall include in the notice provided pursuant to subsection (22)(b):

(i) a general description of the reason for the request for external review;

(ii) the written opinion of each clinical peer, including the opinion of each clinical peer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation;

(iii) the date on which the independent review organization was assigned by the commissioner to conduct the external review;

(iv) the time period during which the external review was conducted;

(v) the date of the independent review organization's decision; and

(vi) the principal rationale for its decision.

(e) On receipt of a notice of a decision pursuant to subsection (22)(c)(i) reversing the adverse determination or final adverse determination, the health insurance issuer shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the adverse determination or final adverse determination.

Section 25. Binding nature of external review decisions. (1) An external review decision is binding on:

(a) the health insurance issuer; and

(b) the covered person except to the extent that the covered person has other remedies available under applicable federal or state law.

(2) A covered person or, if applicable, the covered person's authorized representative may not file a subsequent request for external review involving the same adverse determination or final adverse determination for which the covered person has already received an external review decision pursuant to [sections 17 through 31].

Section 26. Approval of independent review organizations. (1) The commissioner shall approve independent review organizations that are eligible to conduct external reviews under [sections 17 through 31].

(2) To be eligible for approval by the commissioner to conduct external reviews under [sections 17 through 31], an independent review organization:

(a) must be accredited by a nationally recognized private accrediting entity as provided in subsection (5) and meet the minimum qualifications provided in [section 27]; and

(b) shall submit an application for approval in accordance with subsection (4).

(3) The commissioner shall develop an application form for initially approving and for reapproving independent review organizations to conduct external reviews.

(4) Any independent review organization seeking to be approved to conduct external reviews under [sections 17 through 31] shall submit the application form and include with the form all documentation and information necessary for the commissioner to determine whether the independent review organization satisfies the minimum qualifications established under [section 27] and subsection (5) of this section.

(5) An independent review organization is eligible for approval under this section only if it is accredited by a nationally recognized private accrediting entity approved by the commissioner as having independent review organization accreditation standards that are equivalent to or exceed the minimum qualifications for independent review organizations established under [section 27].

(6) The commissioner's approval of an independent review organization is effective for 2 years unless the commissioner determines before the expiration date that the independent review organization is not satisfying the minimum qualifications established under [section 27].

(7) If the commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under [section 27], the commissioner shall terminate the approval of the independent review organization and remove the independent review organization from the list of independent review organizations maintained by the commissioner pursuant to subsection (8).

(8) The commissioner shall maintain and periodically update a list of approved independent review organizations.

Section 27. Minimum qualifications for independent review organizations. (1) To be approved to conduct external reviews as provided in [section 26], an independent review organization shall establish and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in [sections 22, 23, and 24]. The written policies and procedures must include, at a minimum:

(a) a quality assurance mechanism that ensures:

(i) that external reviews are conducted within the specified timeframes and that required notices are provided in a timely manner;

(ii) that the independent review organization is unbiased;

(iii) both the selection of qualified and impartial clinical peers to conduct external reviews on behalf of the independent review organization and the suitable matching of reviewers to specific cases;

(iv) that the independent review organization employs or contracts with an adequate number of clinical peers to meet the objective of qualified, impartial reviews;

(v) the confidentiality of medical and treatment records as well as clinical review criteria; and

(vi) that any person employed by or under contract with the independent review organization adheres to the requirements of [sections 17 through 31];

(b) a toll-free telephone service to receive information related to external reviews on a 24-hour-a-day, 7-day-a-week basis. The telephone service must be capable of accepting, recording, or providing appropriate instruction to incoming telephone callers during other-than-normal business hours.

(c) an agreement to maintain and provide to the commissioner the information required under [section 29].

(2) All clinical peers assigned by an independent review organization to conduct external reviews must:

(a) be physicians or other appropriate health care providers; and

(b) meet the following minimum qualifications:

(i) be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(ii) be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions of the covered person;

(iii) hold a nonrestricted professional license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in one or more areas appropriate to the subject of the external review; and

(iv) have no history of disciplinary actions or sanctions, including participation restrictions or a loss of staff privileges either taken or pending by any hospital, government agency, governmental unit, or any regulatory body if the disciplinary actions or sanctions raise a substantial question as to the clinical peer's physical, mental, or professional competence or moral character.

(3) In addition to the requirements in subsection (1), an independent review organization may not own or control, be a subsidiary of, or in any way be owned or controlled by or exercise control over a health plan, a health insurance issuer, a national, state, or local trade association of health plans, or a national, state, or local trade association of health care providers.

(4) (a) In addition to the requirements in subsections (1) through (3), to be approved under [section 26] to conduct an external review of a specified case, neither the independent review organization selected to conduct the external review nor any clinical peer assigned by the independent review organization to conduct the external review may have a material professional, familial, or financial conflict of interest with any of the following:

(i) the health insurance issuer that is the subject of the external review;

(ii) the covered person whose treatment is the subject of the external review or, if applicable, the covered person's authorized representative;

(iii) any officer, director, or management employee of the health insurance issuer that is the subject of the external review;

(iv) the health care provider, the health care provider's medical group, or the independent practice association recommending the health care service or treatment that is the subject of the external review;

(v) the facility at which the recommended health care service or treatment would be provided; or

(vi) the developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose treatment is the subject of the external review.

(b) In determining whether an independent review organization or a clinical peer assigned by the independent review organization to conduct the external review has a material professional, familial, or financial conflict of interest, the commissioner shall take into consideration:

(i) situations in which the independent review organization to be assigned to conduct an external review of a specified case or a clinical peer to be assigned by the independent review organization to conduct an external review of a specified case may have an apparent professional, familial, or financial relationship or connection with a person described in subsection (4)(a) if the characteristics of that relationship or connection do not pose a material professional, familial, or financial conflict of interest that otherwise would result in the disapproval of the independent review organization or of the clinical peer from conducting the external review; and

(ii) whether other medical expertise is available within a reasonable timeframe.

(5) (a) An independent review organization that is accredited by a nationally recognized private accrediting entity that has independent review accreditation standards determined by the commissioner to be equivalent to or exceed the minimum qualifications of this section is presumed to be in compliance with this section and eligible for approval under [section 26]. However, the commissioner shall also consider the conflict of interest provisions of subsection (4).

(b) The commissioner shall initially and periodically review the independent review organization accreditation standards of a nationally recognized private accrediting entity to determine whether the entity's standards are and continue to be equivalent to or exceed the minimum qualifications established under this section. The commissioner may accept a review conducted by the NAIC for the determination under this subsection (5)(b).

(c) On request, a nationally recognized private accrediting entity shall make its current independent review organization accreditation standards available to the commissioner or the NAIC to enable the commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established under this section. The commissioner may exclude any private accrediting entity that is not reviewed by the NAIC.

Section 28. Liability limits for independent review organization. (1) Except as provided in subsection (2), an independent review organization or clinical peer working on behalf of an independent review organization or an employee, agent, or contractor of an independent review organization is not liable to any person for any opinions rendered or acts or omissions performed within the scope of the organization's or person's duties under the law during or

upon completion of an external review conducted pursuant to [sections 17 through 31].

(2) The liability exemption under subsection (1) does not apply if the opinion was rendered or if the act or omission was performed in bad faith or involved gross negligence.

Section 29. External review reporting requirements. (1) An independent review organization assigned pursuant to [section 22, 23, or 24] to conduct an external review shall maintain written records in the aggregate by state and by health insurance issuer on all requests for external reviews for which the independent review organization conducted an external review during the calendar year.

(2) Each independent review organization required to maintain written records as provided in subsection (1) shall submit to the commissioner, at least annually by March 1, a report in the format specified by the commissioner.

(3) The report must include, aggregated by state and by health insurance issuer:

(a) the total number of requests for external review;

(b) the number of requests for external review resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination and the number resolved reversing the adverse determination or final adverse determination;

(c) the average length of time for resolution;

(d) a summary of the types of coverages or cases for which an external review was sought, provided in the format required by the commissioner;

(e) the number of external reviews that were terminated pursuant to [section 22(17) or 24(15)] as the result of a reconsideration by the health insurance issuer of its adverse determination or final adverse determination after the receipt of additional information from the covered person or, if applicable, the covered person's authorized representative;

(f) a record of the requests for external review that the health insurance issuer did not assign to a specific independent review organization according to the scheduled rotation due to lack of qualification; and

(g) any other information the commissioner may request or require.

(4) The independent review organization shall retain the written records required pursuant to subsection (1) for at least 6 years.

(5) Each health insurance issuer shall maintain in the aggregate for each type of health plan offered by the health insurance issuer written records on all requests for external review for which the health insurance issuer received notice pursuant to [sections 1 through 31].

(6) Each health insurance issuer required to maintain written records on all requests for external review pursuant to subsection (5) shall submit to the commissioner, at least annually by March 1, a report in the format specified by the commissioner.

(7) The report must include in the aggregate by state and by type of health plan:

(a) the total number of requests for external review;

(b) the number of requests determined eligible for a full external review based on the total number of requests for external review reported under subsection (7)(a);

(c) the number of requests for external review resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination and the number resolved reversing the adverse determination or final adverse determination;

(d) the average length of time for resolution;

(e) a summary of the types of coverage or cases for which an external review was sought, as provided in the format required by the department;

(f) the number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or, if applicable, the covered person's authorized representative; and

(g) any other information the commissioner may request or require.

(8) The health insurance issuer shall retain the written records required pursuant to subsection (5) for at least 6 years.

Section 30. Funding of external review. The health insurance issuer against which a request for a standard external review or an expedited external review is filed shall pay the costs of the independent review organization for conducting the external review.

Section 31. Disclosure requirements. (1) Each health insurance issuer shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage provided to covered persons.

(2) The disclosure required under subsection (1) must:

(a) be in a format prescribed by the commissioner; and

(b) include a statement that informs the covered person of the right of the covered person or, if applicable, the covered person's authorized representative to file a request for an external review of an adverse determination or final adverse determination with the commissioner. The statement may explain that external review is available when the adverse determination or final adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care, or level of effectiveness. The statement must include the telephone number and address of the commissioner.

(3) In addition to the requirements under subsection (2), the statement must inform the covered person that, when filing a request for an external review, the covered person or, if applicable, the covered person's authorized representative is required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

Section 32. Section 33-30-102, MCA, is amended to read:

"33-30-102. Application of this chapter — construction of other related laws. (1) All health service corporations are subject to the provisions of this chapter. In addition to the provisions contained in this chapter, other chapters and provisions of this title apply to health service corporations as follows: 33-2-1212; 33-3-307; 33-3-308; 33-3-401; 33-3-431; 33-3-701 through 33-3-704; 33-17-101; Title 33, chapter 2, part 19; Title 33, chapter 17, parts 2 and 10 through 12; and Title 33, chapters 1, 15, 18, 19, ~~and~~ 22, *and 32,* except 33-22-111.

(2) A law of this state other than the provisions of this chapter applicable to health service corporations must be construed in accordance with the

fundamental nature of a health service corporation, and in the event of a conflict, the provisions of this chapter prevail."

Section 33. Section 33-31-111, MCA, is amended to read:

"33-31-111. Statutory construction and relationship to other laws. (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under Title 33, chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, part 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-401, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-137, 33-22-138, 33-22-141, 33-22-142, 33-22-152, 33-22-153, 33-22-156 through 33-22-159, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, 33-22-706*, Title 33, chapter 32*[, and Title 33, chapter 40, part 1,] apply to health maintenance organizations. (Bracketed language in (7) terminates December 31, 2017—sec. 14, Ch. 363, L. 2013.)"

Section 34. Section 33-32-101, MCA, is amended to read:

"33-32-101. Purpose. The legislature finds and declares that it is the purpose of this chapter to:

(1) promote the delivery of quality health care in a cost-effective manner;

(2) foster greater coordination between health care providers, third-party payors, and others who conduct utilization review activities;

(3) ensure access to health care services; ~~and~~

(4) protect patients, employers, and health care providers by ensuring that utilization review activities result in informed decisions on the appropriateness of medical care made by those best qualified to be involved in the utilization review process*; and*

(5) establish standards and criteria for the structure and operation of utilization review and benefit determination processes designed to facilitate ongoing assessment and management of health care services."

Section 35. Section 33-32-102, MCA, is amended to read:

"33-32-102. Definitions. As used in this chapter, the following definitions apply:

~~(1) "Commissioner" means the commissioner of insurance provided for in 2-15-1903.~~

(1) "Adverse determination", except as provided in [section 18], means:

(a) a determination by a health insurance issuer or its designated utilization review organization that, based on the provided information and after application of any utilization review technique, a requested benefit under the health insurance issuer's health plan is denied, reduced, or terminated or that payment is not made in whole or in part for the requested benefit because the requested benefit does not meet the health insurance issuer's requirement for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness or is determined to be experimental or investigational;

(b) a denial, reduction, termination, or failure to provide or make payment in whole or in part for a requested benefit based on a determination by a health insurance issuer or its designated utilization review organization of a person's eligibility to participate in the health insurance issuer's health plan;

(c) any prospective review or retrospective review of a benefit determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit; or

(d) a rescission of coverage determination.

(2) "Ambulatory review" means a utilization review of health care services performed or provided in an outpatient setting.

(3) "Authorized representative" means:

(a) a person to whom a covered person has given express written consent to represent the covered person;

(b) a person authorized by law to provided substituted consent for a covered person; or

(c) a family member of the covered person or the covered person's treating health care provider only if the covered person is unable to provide consent.

(4) "Case management" means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or otherwise complex health conditions.

(5) "Certification" means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health insurance issuer's requirements for medical necessity, appropriateness, health care setting, level of care, and level of effectiveness.

(6) "Clinical peer" means a physician or other health care provider who:

(a) holds a nonrestricted license in a state of the United States; and

(b) is trained or works in the same or a similar specialty to the specialty that typically manages the medical condition, procedure, or treatment under review.

(7) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by a health insurance issuer to determine the necessity and appropriateness of health care services.

(8) "Concurrent review" means a utilization review conducted during a patient's stay or course of treatment in a facility, the office of a health care professional, or another inpatient or outpatient health care setting.

(9) "Cost sharing" means the share of costs that a covered member pays under the health insurance issuer's health plan, including maximum out-of-pocket, deductibles, coinsurance, copayments, or similar charges, but does not include premiums, balance billing amounts for out-of-network providers, or the cost of noncovered services.

(10) "Covered benefits" or "benefits" means those health care services to which a covered person is entitled under the terms of a health plan.

(11) "Covered person" means a policyholder, a certificate holder, a member, a subscriber, an enrollee, or another individual participating in a health plan.

(12) "Discharge planning" means the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives after discharge from a facility.

(13) "Emergency medical condition" has the meaning provided in 33-36-103.

(14) "Emergency services" has the meaning provided in 33-36-103.

(15) "External review" describes the set of procedures provided for in [sections 17 through 31].

(16) "Final adverse determination" means an adverse determination involving a covered benefit that has been upheld by a health insurance issuer or its designated utilization review organization at the completion of the health insurance issuer's internal grievance process as provided in [sections 10 through 16].

(17) "Grievance" means a written complaint or an oral complaint if the complaint involves an urgent care request submitted by or on behalf of a covered person regarding:

(a) availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) claims payment, handling, or reimbursement for health care services; or

(c) matters pertaining to the contractual relationship between a covered person and a health insurance issuer.

~~(2)~~*(18)* "Health care provider" *or "provider"* means a person, corporation, facility, or institution licensed by the state to provide, or otherwise lawfully providing, health care services, including but not limited to:

(a) a physician, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist, chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist, audiologist, licensed addiction counselor, or licensed professional counselor; and

(b) an officer, employee, or agent of a person described in subsection ~~(2)(a)~~ *(18)(a)* acting in the course and scope of employment.

~~(3)~~*(19)* "Health care services" means ~~the health care and~~ services ~~provided by health care providers, including drugs, medicines, ambulance services, and~~

~~other therapeutic and rehabilitative services and supplies~~ *for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.*

(20) "Health insurance issuer" has the meaning provided in 33-22-140.

(21) "Network" means the group of participating providers providing services to a managed care plan.

(22) "Participating provider" means a health care provider who, under a contract with a health insurance issuer or with its contractor or subcontractor, has agreed to provide health care services to covered persons with the expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health insurance issuer.

(23) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, or any similar entity or combination of entities in this subsection (22).

(24) "Prospective review" means a utilization review conducted prior to an admission or a course of treatment.

(25) (a) "Rescission" means a cancellation or the discontinuance of coverage under a health plan that has a retroactive effect.

(b) The term does not include a cancellation or discontinuance under a health plan if the cancellation or discontinuance of coverage:

(i) has only a prospective effect; or

(ii) is effective retroactively to the extent that the cancellation or discontinuance is attributable to a failure to timely pay required premiums or contributions toward the cost of coverage.

(26) (a) "Retrospective review" means a review of medical necessity conducted after services have been provided to a covered person.

(b) The term does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(27) "Second opinion" means an opportunity or requirement to obtain a clinical evaluation by a health care provider other than the one originally making a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the initial proposed health care service.

(28) "Stabilize" means, with respect to an emergency condition, to ensure that no material deterioration of the condition is, within a reasonable medical probability, likely to result from or occur during the transfer of the individual from a facility.

(29) (a) "Urgent care request" means a request for a health care service or course of treatment with respect to which the time periods for making a nonurgent care request determination could:

(i) seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

(ii) subject the covered person, in the opinion of a physician with knowledge of the covered person's medical condition, to severe pain that cannot be adequately managed without the health care service or treatment that is the subject of the request.

(b) Except as provided in subsection (29)(c), in determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the

health insurance issuer shall apply the judgment of a prudent lay person who possesses an average knowledge of health and medicine.

(c) Any request that a physician with knowledge of the covered person's medical condition determines is an urgent care request within the meaning of subsection (29)(a) must be treated as an urgent care request.

~~(4)~~*(30)* ~~(a)~~ "Utilization review" means a ~~system for review of health care services for a patient to determine the~~ *set of formal techniques designed to monitor the use of or to evaluate the clinical* necessity, ~~or~~ appropriateness*, efficacy, or efficiency* of ~~services, whether that review is prospective, concurrent, or retrospective, when the review will be used directly or indirectly in order to determine whether the~~ health care services*, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinions, certification, concurrent review, case management, discharge planning, or retrospective review.* ~~will be paid, covered, or provided.~~

~~(b) Utilization review does not include routine claim administration or determination that does not include determinations of medical necessity or appropriateness.~~

(31) "Utilization review organization" means an entity that conducts utilization review, other than a health insurance issuer performing a review for its own health plans."

Section 36. Section 33-32-103, MCA, is amended to read:

"33-32-103. Utilization review plan. ~~A person~~ *An entity covered under the provisions of this chapter* may not conduct a utilization review of health care services provided or to be provided to a patient covered under a contract or plan for health care services issued in this state unless that ~~person~~ *entity*, at all times, maintains with the commissioner a current utilization review plan that includes:

(1) a description of review criteria, standards, and procedures to be used in evaluating proposed or delivered health care services that, to the extent possible, must:

(a) be based on nationally recognized criteria, standards, and procedures;

(b) reflect community standards of care, except that a utilization review plan for health care services under the medicaid program provided for in Title 53 need not reflect community standards of care;

(c) ensure quality of care; and

(d) ensure access to needed health care services;

~~(2) the provisions by which patients or providers may seek reconsideration or appeal of adverse decisions by the person conducting the utilization review;~~

~~(3) the type and qualifications of the personnel either employed or under contract to perform the utilization review;~~

~~(4)~~*(2)* policies and procedures to ensure that a representative of the ~~person~~ *entity* conducting the utilization review is reasonably accessible to patients and health care providers at all times;

~~(5)~~*(3)* policies and procedures to ensure compliance with all applicable state and federal laws to protect the confidentiality of individual medical records;

~~(6)~~*(4)* a copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan; and

~~(7)~~*(5)* any other information ~~as~~ *that* may be required by the commissioner that is necessary to implement this chapter."

Section 37. Section 33-32-104, MCA, is amended to read:

"33-32-104. Preemption by federal law. If any provision of this chapter is preempted ~~or duplicated~~ by federal law or regulations as applied to any specific health care service, then the provision of this chapter that is preempted ~~or duplicated~~ by federal law or regulations does not apply to that health care service but only to the extent of the preemption ~~or duplication~~."

Section 38. Section 33-32-105, MCA, is amended to read:

"33-32-105. Application — exemptions. (1) ~~The~~ *Except as provided in subsections (2) and (3), the* provisions of this chapter apply to*:* ~~a person or entity performing utilization reviews who is, or is affiliated with, under contract with, or acting on behalf of:~~

~~(a) a Montana business entity; or~~

~~(b) a third party that provides or administers health care benefits to citizens of this state, including:~~

~~(i) a health insurer, nonprofit health service plan, health service corporation, employees' health and welfare fund, or preferred provider organization authorized to offer health insurance policies or contracts;~~

~~(ii) a health maintenance organization issued a certificate of authority in accordance with Title 33, chapter 31; or~~

~~(iii) a state agency.~~

(a) a health insurance issuer that offers a health plan and provides or performs utilization review services;

(b) any designee of the health insurance issuer or utilization review organization that performs utilization review functions on the health insurance issuer's behalf; and

(c) a health insurance issuer or its designated utilization review organization that provides or performs prospective review or retrospective review benefit determinations.

(2) A general in-house utilization review for a health care provider, including an in-house utilization review that is conducted by or for a long-term care facility and that is required by *regulations for* medicare or medicaid ~~regulations~~, is exempt from the provisions of this chapter as long as the review does not directly result in the approval or denial of payment for health care services for a particular case.

(3) A peer review procedure conducted by a professional society or association of providers is exempt from the provisions of this chapter."

Section 39. Section 33-33-103, MCA, is amended to read:

"33-33-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Utilization review" ~~means the same as~~ *has the meaning* provided in ~~33-32-102(4)~~ *33-32-102*.

(2) "Utilization review organization" means an entity that provides utilization review services."

Section 40. Repealer. The following sections of the Montana Code Annotated are repealed:

33-32-201. Conduct of utilization review.

33-32-203. Appeal and assignment of claim.

33-32-204. Commissioner to adopt rules.

33-37-101. Definitions.

33-37-102. Independent review of adverse determinations.

33-37-103. Peer review.

33-37-104. Contract provisions — contract termination.

33-37-105. Rulemaking authority.

33-37-106. Application to certain entities.

33-37-110. Administration of managed care organization.

Section 41. Codification instruction. [Sections 1 through 31] are intended to be codified as an integral part of Title 33, chapter 32, and the provisions of Title 33, chapter 32, apply to [sections 1 through 31].

Section 42. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 43. Effective date — applicability. [This act] is effective January 1, 2016, and applies to health insurance coverage as defined in 33-22-140(12) in effect on or after January 1, 2016, except that [this act] does not apply to excepted benefits as defined in 33-22-140(8).

Approved May 5, 2015

CHAPTER NO. 429

[SB 100]

AN ACT GRANTING THE BOARD OF LIVESTOCK THE POWER TO CONTROL AND ERADICATE FERAL SWINE; PROVIDING RULEMAKING AUTHORITY; PROHIBITING THE POSSESSION, HUNTING, AND OTHER ACTIONS RELATED TO FERAL SWINE; ESTABLISHING LIMITS ON COST OF DEPARTMENT OF LIVESTOCK ENFORCEMENT ACTIONS; ESTABLISHING PENALTIES; AMENDING SECTIONS 81-4-207 AND 81-4-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 6], unless the context indicates otherwise, the following definitions apply:

(1) "Board" means the board of livestock provided for in 2-15-3102.

(2) "Feral swine" means a hog, boar, or pig that appears to be untamed, undomesticated, or in a wild state or appears to be contained for commercial hunting or trapping.

Section 2. Control of feral swine. A person, a state agency, or a federal agency authorized by the state or the federal government is allowed to control or eradicate feral swine.

Section 3. Authority — costs — rulemaking. (1) The board is authorized to control and eradicate feral swine and may establish rules to implement the reporting requirements of [section 5].

(2) The cost of enforcement actions under [sections 1 through 6] must be paid from the general fund if the cost to the department exceeds $1,000 and federal funds are not available to pay the excess costs.

Section 4. Prohibitions. The following actions are prohibited:

(1) importing, transporting, or possessing live feral swine;

(2) intentionally, knowingly, or negligently allowing swine to live in a feral state;

(3) except as provided in [sections 2 and 5], hunting, trapping, or killing a feral swine or assisting in hunting, trapping, or killing a feral swine;

(4) intentionally feeding a feral swine;

(5) expanding the range of a feral swine; and

(6) profiting from the release, hunting, trapping, or killing of a feral swine.

Section 5. Presence of feral swine — notification — immediate threat. (1) Except as provided in subsection (2), a person who believes feral swine are present on private or public property shall notify the board and, if authorized, assist in the control or eradication of the feral swine.

(2) A person or the person's agent who encounters feral swine on property owned or leased by that person may immediately eradicate the feral swine if the feral swine:

(a) poses an immediate threat of harm to a person or property; or

(b) will expand its range without immediate eradication.

(3) A person who eradicates a feral swine pursuant to subsection (2) shall notify the board as soon as practicable, but no later than the limit established by board rule. The person shall follow instructions provided by the board, including but not limited to the handling, preservation for testing, or disposal of the carcass.

Section 6. Penalties for violations. A person violating the provisions of [section 4] is subject to:

(1) a fine of at least $2,000 but not more than $10,000 for each violation; and

(2) repayment of costs incurred by a state or federal agency for the control or eradication of a feral swine as a result of the person's violation.

Section 7. Section 81-4-207, MCA, is amended to read:

"81-4-207. Castration of animals running at large — notice to owner — expense and charges. (1) A *Except as provided in subsection (3), a* person may take up and secure any animal found running at large on the open range. After taking it up the person shall, without unnecessary delay, post at the United States post office or as near as may be to the place where the animal was taken up a notice truly dated and subscribed by the person or the person's agent to the effect that the animal, describing it by marks and brands, if any, color, and sex, was taken up on the day named while it was running at large on the open range in the county, naming the county, and that, unless claimed and removed within 5 days after the date of the posting, the animal will be castrated at the expense of the owner. If the owner, person, firm, corporation, or association having management or control of the animal is known to the person who took the animal up, personal service of the notice upon the owner, person, firm, corporation, or association having management or control of the animal is the equivalent to the posting. The notice, if personally served, may state that, unless the animal is claimed and removed within 2 days after the date of the notice served personally, the animal will be castrated at the expense of the owner.

(2) If the animal taken up is not claimed and removed within 5 days or 2 days, as the case may be, it may lawfully be castrated in the usual manner and doing no more harm than is necessary. The expense of castration must be paid by the owner. If the animal is claimed within the time prescribed, the claimant shall pay to the person who took the animal up the reasonable expense of keeping and feeding the animal since it was taken up and also the sum of $5 for the taking up and giving of the notice. Upon making the payments, the claimant shall immediately remove and take away the animal.

(3) A person shall report a swine running at large on the open range to the board. The board shall determine if the swine is an animal running at large subject to this section or a feral swine subject to the provisions of [sections 1 through 6]."

Section 8. Section 81-4-208, MCA, is amended to read:

"81-4-208. Killing of animal running at large — notice — posting and service. (1) ~~If~~ *Except as provided in subsection (3), if* an animal running at large cannot, by reasonable effort, be captured, taken up, or corralled, it may lawfully be killed unless the owner or person having the management or control of it takes the animal off the open range and restrains it from running at large within 10 days after notice is given as provided in this section. The notice must be signed by one or more taxpayers of the vicinity of the range on which the animal is at large and must be substantially as follows:

"To whom it may concern:

Take notice, that a certain (stallion, ridgeling, unaltered male mule, or jackass, as the case may be) is running at large on the open range (identify the range by general description) in .... County, Montana. Unless the animal is removed from the range and restrained from running at large on open range within 10 days after the date of this notice, it will be killed.

(Date) (Signature or signatures)"

(2) The notice must be posted at the post office nearest the place where the animal was last seen on the range and similar notices must be posted in two other of the most public places in the vicinity of the range, and the notice must at once be mailed to the owner or person having management or control of the animal if the owner's or person's name and address are known.

(3) A person shall report a swine running at large to the board. The board shall determine if the swine is an animal running at large subject to this section or a feral swine subject to the provisions of [sections 1 through 6]."

Section 9. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 81, and the provisions of Title 81 apply to [sections 1 through 6].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 430

[SB 180]

AN ACT REVISING THE FUNDING SOURCE FOR THE SENIOR CITIZEN AND PERSONS WITH DISABILITIES TRANSPORTATION SERVICES ACCOUNT; ALLOCATING REVENUE FROM THE RENTAL CAR SALES AND USE TAX TO THE ACCOUNT; REMOVING A GENERAL FUND TRANSFER TO THE ACCOUNT; REVISING THE PROVISION OF FUNDS FROM THE ACCOUNT; AMENDING SECTIONS 7-14-112, 10-3-801, 15-1-122, AND 15-68-820, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-112, MCA, is amended to read:

"7-14-112. Senior citizen and persons with disabilities transportation services account — use. (1) There is a senior citizen and persons with disabilities transportation services account in the state special

revenue fund. Money must be deposited in the account pursuant to ~~15-1-122(2)(c)~~ *15-68-820(2)*.

(2) ~~Except as provided in subsection (6), the~~ *The* account must be used to provide operating funds or matching funds for operating grants pursuant to 49 U.S.C. 5311 to counties, incorporated cities and towns, *tribal governments, urban* transportation districts, or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with disabilities.

(3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to award grants to counties, incorporated cities and towns, *tribal governments, urban* transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311.

(b) Priority for awarding grants must be determined according to the following factors:

(i) the most recent census or federal estimate of persons 60 years of age or older and persons with disabilities in the area served by a county, incorporated city or town, *tribal government, urban* transportation district, or nonprofit organization;

(ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older and to persons with disabilities in the transportation service area; *and*

~~(iii) the ability of the transportation provider to provide matching money in an amount determined by the department of transportation; and~~

~~(iv)~~*(iii)* the coordination of services as required in subsection ~~(5)~~ *(4)*.

~~(4) The department of transportation shall ensure that the available funding is distributed equally among the five transportation districts provided in 2-15-2502.~~

~~(5)~~*(4)* In awarding grants, the department of transportation shall give preference to proposals that:

(a) include ~~the establishment of a transit authority to coordinate service area or regional transportation services~~ *participation in a local transportation advisory committee*;

(b) address and document the transportation needs within the community, county, and service area or region;

(c) identify all other transportation providers in the community, county, and service area or region;

(d) explain how services are going to be coordinated with the other transportation providers in the service area or region *by creating a locally developed transportation coordination plan*;

(e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and disabled persons within the community, county, and service area or region who are dependent upon public transit;

(f) include documentation of coordination with other local transportation programs within the community, county, and service area or region, including:

(i) utilization of existing resources and equipment to maximize the delivery of service; and

(ii) the projected increase in ridership and expansion of service;

(g) invite school districts to participate or be included in the transportation coordination efforts within the community, county, and service area or region; and

(h) at a minimum, comply with the provisions in subsections ~~(5)(b)~~ *(4)(b)* through ~~(5)(f)~~ *(4)(f)*.

~~(6) Any money remaining after grants have been awarded to transportation providers who provide transportation services for persons 60 years of age or older and persons with disabilities may be awarded to other transportation providers for operating costs or matching funds for operating grants for the purposes described in 49 U.S.C. 5311 other than for transportation services for persons 60 years of age or older or persons with disabilities.~~"

Section 2. Section 10-3-801, MCA, is amended to read:

"10-3-801. Account created for funding search and rescue operations — rules. (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to 15-1-122~~(2)(f)~~*(2)(e)*;

(b) fund transfers pursuant to 87-1-601(10). These funds may be used only as provided in 87-1-601(10).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff's office at a maximum of $6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall notify the reimbursed local search and rescue unit by mail when the deposit occurs.

(ii) a county sheriff's office at a maximum of $6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for use by local search and rescue units at a maximum of $6,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year;

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training; and

(d) a method for compiling and keeping current a contact list of all search and rescue units in Montana and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation between the various county search and rescue units and between the department and the county units and dedication of a page on the department's website for posting the contact list and other relevant search and rescue information."

Section 3. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of $59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); *and*

~~(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and~~

~~(f)~~*(e)* to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) The amount of $200,000 is transferred from the state general fund to the livestock loss reduction and mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

Section 4. Section 15-68-820, MCA, is amended to read:

"15-68-820. Sales tax and use tax proceeds. ~~All~~ *(1) Except as provided in subsection (2), all* money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112."

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 6. Effective date. [This act] is effective January 1, 2016.

Section 7. Applicability. [This act] applies to rental car sales and use taxes levied after December 31, 2015.

Approved May 5, 2015

CHAPTER NO. 431

[SB 211]

AN ACT ESTABLISHING PROCEDURES RELATED TO MAXIMUM ALLOWABLE COST LISTS FOR PRESCRIPTION DRUGS; REQUIRING

DISCLOSURE OF PRICING SOURCES; AND PROVIDING AN APPEAL PROCESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Maximum allowable cost list" means the list of drugs used by a pharmacy benefit manager that sets the maximum cost on which reimbursement to a network pharmacy or pharmacist is based.

(2) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy pursuant to Title 37, chapter 7.

(3) "Pharmacy" means an established location, either physical or electronic, that is licensed by the board of pharmacy pursuant to Title 37, chapter 7, and that has entered into a network contract with a pharmacy benefit manager or plan sponsor.

(4) "Pharmacy benefit manager" means a person who contracts with pharmacies on behalf of an insurer, third-party administrator, or plan sponsor to process claims for prescription drugs, provide retail network management for pharmacies or pharmacists, and pay pharmacies or pharmacists for prescription drugs.

Section 2. Maximum allowable cost list — limitations on drugs. Before a pharmacy benefit manager places or continues a drug on a maximum allowable cost list, the drug:

(1) must be listed as "A" or "B" rated in the most recent version of the United States food and drug administration's approved drug products with therapeutic equivalence evaluations or have an "NR" or "NA" rating by a nationally recognized reference;

(2) must be available for purchase by pharmacies in this state from national or regional wholesalers; and

(3) may not be obsolete.

Section 3. Maximum allowable cost list — price formulation, updating, and disclosure — exceptions. (1) At the time it enters into a contract with a pharmacy and subsequently upon request, a plan sponsor or pharmacy benefit manager shall provide the pharmacy with the sources used to determine the pricing for the maximum allowable cost list.

(2) A plan sponsor or pharmacy benefit manager shall:

(a) review and update the price information for each drug on the maximum allowable cost list at least once every 10 calendar days to reflect any modification of pricing;

(b) establish a process for eliminating products from the maximum allowable cost list or modifying the prices in the maximum allowable cost list in a timely manner to remain consistent with pricing changes and product availability in the marketplace; and

(c) provide a process for each pharmacy to readily access the maximum allowable cost list specific to the pharmacy in a searchable and usable format.

Section 4. Maximum allowable cost — appeals process. (1) In contracting with a pharmacy, a plan sponsor or pharmacy benefit manager shall:

(a) provide a procedure by which a pharmacy may appeal the price of a drug or drugs on the maximum allowable cost list;

(b) provide a telephone number at which a network pharmacy may contact the pharmacy benefit manager to discuss the status of the pharmacy's appeal; and

(c) respond to an appeal no later than 10 calendar days after the date the appeal is made.

(2) If the final determination is a denial of the pharmacy's appeal, the pharmacy benefit manager shall state the reason for the denial and provide the national drug code of an equivalent drug that is available for purchase by pharmacies in this state from national or regional wholesalers at a price that is equal to or less than the maximum allowable cost for that drug.

(3) If a pharmacy's appeal is determined to be valid by the pharmacy benefit manager, the pharmacy benefit manager shall:

(a) make an adjustment in the drug price effective on the date the appeal is resolved;

(b) make the adjustment applicable to all similarly situated network pharmacy providers as determined by the plan sponsor or the pharmacy benefit manager, as appropriate; and

(c) permit the appealing pharmacy to reverse and rebill the claim in question, using the dates of the original claim or claims.

(4) A pharmacy benefit manager shall make price adjustments to all similarly situated pharmacies within 3 days.

(5) A pharmacy shall file its appeal within 10 calendar days of its submission of the initial claim for reimbursement.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [sections 1 through 4].

Approved May 5, 2015

CHAPTER NO. 432

[SB 252]

AN ACT REVISING SCHOOL FUNDING RELATED TO OIL AND NATURAL GAS PRODUCTION TAXES; REMOVING THE REQUIREMENT THAT SCHOOL DISTRICTS RECEIVING OIL AND NATURAL GAS PRODUCTION TAX REVENUE BUDGET A PORTION OF THAT REVENUE IN THE DISTRICT GENERAL FUND; CLARIFYING DISTRIBUTIONS FROM THE STATE SCHOOL OIL AND NATURAL GAS IMPACT AND DISTRIBUTION ACCOUNTS; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-9-310, 20-9-517, AND 20-9-520, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; *20-9-517; 20-9-520;* 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 2. Section 20-9-310, MCA, is amended to read:

"20-9-310. (Temporary) Oil and natural gas production taxes for school districts — allocation and limits. (1) (a) Except as provided in subsections (1)(b) and ~~(8)~~ *(6)*, the maximum amount of oil and natural gas

production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(b) For fiscal years 2014 through ~~2017~~ *2016* for a school district with a maximum general fund budget of less than $1.5 million, the maximum amount of oil and gas production taxes that a school district may retain is 150% of the school district's maximum general fund budget.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in 20-9-520.

(4) (a) By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) in the following priority:

(i) to the other school district within the unified school system from which the oil and natural gas production revenue originates or to any school district having a joint board status with the district, as provided in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;

(ii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all school districts immediately contiguous to the district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii) that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all school districts that are located in whole or in part in the same county as the school district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from the districts from which

oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all school districts that are located in whole or in part in a county contiguous to a county where a horizontally completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of natural resources and conservation, up to 130% of the maximum budget of each school district receiving a distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be deposited as follows:

(i) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(ii) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and

(iii) 25% of the retained amount must be distributed to the counties ~~for deposit in the~~ *in proportion to a county's oil and natural gas production taxes for the preceding 3 years compared to the total of all counties' oil and natural gas production taxes for the preceding 3 years. Funds distributed must be deposited in a county's* county school oil and natural gas impact fund provided for in 20-9-518.

(5) *(a)* Subject to the limitation in subsection (1) *and the conditions in subsection (5)(b)* ~~and except as provided in subsection (7)~~, the trustees shall budget and allocate the oil and natural gas production taxes ~~received~~ *anticipated* by the district ~~as follows:~~

~~(a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;~~

~~(b) oil and natural gas production taxes received by the district must be deposited in the general fund until the limit under subsection (5)(a) is reached; and~~

~~(c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.~~

~~(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.~~

~~(7) The provisions of subsections (5) and (6) do not apply to the following:~~

~~(a) a district that has a maximum general fund budget of less than $1 million;~~

~~(b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;~~

~~(c) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or~~

~~(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period~~ *in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.*

(b) Except as provided in subsection (5)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:

(i) the trustees must levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;

(ii) the mills levied under subsection (5)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and

(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (5)(b)(i) must be added to the number of mills calculated in 20-9-141(2).

(c) The provisions of subsection (5)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than $1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsection (5) of this section would otherwise apply; or

(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

~~(8)~~*(6)* The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural

gas productions taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying $45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

~~(9)~~*(7)* In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall. (Terminates June 30, 2016—sec. 43, Ch. 400, L. 2013.)

20-9-310. (Effective July 1, 2016) Oil and natural gas production taxes for school districts — allocation and limits. (1) Except as provided in subsection ~~(8)~~ *(6)*, the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in 20-9-520.

(4) By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) as follows:

(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and

(c) 25% of the retained amount must be distributed to the counties ~~for deposit in the~~ *in proportion to a county's oil and natural gas production taxes for the preceding 3 years compared to the total of all counties' oil and natural gas production taxes for the preceding 3 years. Funds distributed must be deposited in a county's* county school oil and natural gas impact fund provided for in 20-9-518.

(5) *(a)* Subject to the limitation in subsection (1) *and the conditions in subsection (5)(b)* ~~and except as provided in subsection (7)~~, the trustees shall budget and allocate the oil and natural gas production taxes ~~received~~ *anticipated* by the district ~~as follows:~~

~~(a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;~~

~~(b) oil and natural gas production taxes received by the district must be deposited in the general fund until the limit under subsection (5)(a) is reached; and~~

~~(c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.~~

~~(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.~~

~~(7) The provisions of subsections (5) and (6) do not apply to the following:~~

~~(a) a district that has a maximum general fund budget of less than $1 million;~~

~~(b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;~~

~~(c) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or~~

~~(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period~~ *in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.*

(b) Except as provided in subsection (5)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:

(i) the trustees must levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;

(ii) the mills levied under subsection (5)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and

(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (5)(b)(i) must be added to the number of mills calculated in 20-9-141(2).

(c) The provisions of subsection (5)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than $1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsection (5) of this section would otherwise apply; or

(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

~~(8)~~*(6)* The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying $45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

~~(9)~~*(7)* In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall."

Section 3. Section 20-9-517, MCA, is amended to read:

"20-9-517. (Temporary) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are receiving oil and natural gas production taxes under 15-36-331 in an amount less than 20% of the district's maximum general fund budget but that are impacted by oil and natural gas development. *The funds in this account are statutorily appropriated as provided in 17-7-502.*

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(4)(b) ~~and any amounts pursuant to 20-9-104(6)~~.

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) an unusual enrollment decrease;

(c) higher rates of student mobility;

(d) a district's need to hire new teachers or staff as a result of increased enrollment;

(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(f) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed $7.5 million. Any amount over $7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2). (Terminates June 30, 2016—sec. 43, Ch. 400, L. 2013.)

20-9-517. (Effective July 1, 2016) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 in an amount sufficient to address oil and natural gas development impacts. *The funds in this account are statutorily appropriated as provided in 17-7-502.*

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(4) ~~and any amounts pursuant to 20-9-104(6)~~.

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) an unusual enrollment decrease;

(c) higher rates of student mobility;

(d) a district's need to hire new teachers or staff as a result of increased enrollment;

(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(f) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed $7.5 million. Any amount over $7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2)."

Section 4. Section 20-9-520, MCA, is amended to read:

"20-9-520. State school oil and natural gas distribution account. (1) There is a state school oil and natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the account is for distribution of the oil and natural gas production revenue exceeding the limitation in 20-9-310(1) ~~to school districts~~ in accordance with 20-9-310(4). *The*

funds deposited in this account for distribution to school districts and counties under 20-9-310(4) are statutorily appropriated as provided in 17-7-502.

(2) The department of revenue shall deposit in the account oil and natural gas production taxes that ~~exceeds 130% of a school district's maximum budget~~ *exceed the limitations in 20-9-310*.

(3) The superintendent of public instruction shall distribute the money from the account in accordance with 20-9-310(4) ~~as long as funds remain in the account.~~

~~(4) If funds remain after all of the provisions of 20-9-310(4)(a)(i) through (4)(a)(iv) have occurred, the superintendent of public instruction will deposit the remaining funds in accordance with 20-9-310(4)(b).~~"

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 433

[SB 260]

AN ACT REVISING DISTRIBUTIONS FROM THE STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; PROVIDING FOR THE DISTRIBUTION OF FUNDS BY THE OFFICE OF PUBLIC INSTRUCTION; GRANTING RULEMAKING AUTHORITY; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 17-7-502, 20-9-310, 20-9-517, 20-9-518, AND 20-9-520, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; *20-9-517; 20-9-520;* 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416;

77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 2. Section 20-9-310, MCA, is amended to read:

"20-9-310. (Temporary) Oil and natural gas production taxes for school districts — allocation and limits. (1) (a) Except as provided in subsections (1)(b) and (8), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(b) For fiscal years 2014 through ~~2017~~ *2016* for a school district with a maximum general fund budget of less than $1.5 million, the maximum amount of oil and gas production taxes that a school district may retain is 150% of the school district's maximum general fund budget.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in 20-9-520.

(4) (a) By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any

amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) in the following priority:

(i) to the other school district within the unified school system from which the oil and natural gas production revenue originates or to any school district having a joint board status with the district, as provided in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;

(ii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all school districts immediately contiguous to the district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii) that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all school districts that are located in whole or in part in the same county as the school district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.

(iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all school districts that are located in whole or in part in a county contiguous to a county where a horizontally completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of natural resources and conservation, up to 130% of the maximum budget of each school district receiving a distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for

distribution from all school districts from which the distributable revenue originates.

(b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be deposited as follows:

(i) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(ii) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and

(iii) 25% of the retained amount must be distributed to the counties ~~for deposit in the~~ *in proportion to a county's oil and natural gas production taxes for the preceding 3 years compared to the total of all counties' oil and natural gas production taxes for the preceding 3 years. Funds distributed must be deposited in a county's* county school oil and natural gas impact fund provided for in 20-9-518.

(5) Subject to the limitation in subsection (1) and except as provided in subsection (7), the trustees shall budget and allocate the oil and natural gas production taxes received by the district as follows:

(a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(b) oil and natural gas production taxes received by the district must be deposited in the general fund until the limit under subsection (5)(a) is reached; and

(c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.

(7) The provisions of subsections (5) and (6) do not apply to the following:

(a) a district that has a maximum general fund budget of less than $1 million;

(b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(c) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or

(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

(8) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural

gas productions taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying $45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

(9) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall. (Terminates June 30, 2016—sec. 43, Ch. 400, L. 2013.)

20-9-310. (Effective July 1, 2016) Oil and natural gas production taxes for school districts — allocation and limits. (1) Except as provided in subsection (8), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in 20-9-520.

(4) *(a)* By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) ~~as follows:~~ *to school districts that are directly impacted by oil and natural gas development, but that receive insufficient oil and natural gas revenues to address the oil and natural gas development impacts. The office of public instruction shall adopt administrative rules to establish a process, criteria, and a mechanism for distribution under this subsection (4), using the negotiated rulemaking process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1*

~~(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;~~

~~(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and~~

~~(c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in 20-9-518~~.

(b) In developing administrative rules, the office of public instruction shall establish two independent negotiated rulemaking committees to consider issues for the purpose of reaching a consensus to develop proposed rules for the distribution of the funds under this subsection (4).

(c) The members of the first negotiated rulemaking committee appointed by the office of public instruction must include public school officials and public

school employees from school districts that are located in or are immediately adjacent to a county in which oil and natural gas production taxes are generated and professional organizations representing these public school officials and employees. This committee shall transmit proposed rules regarding distribution of 50% of the funds available under this subsection (4) in accordance with 2-5-108.

(d) The members of the second negotiated rulemaking committee appointed by the office of public instruction must include public school officials and public school employees from school districts around the state and professional organizations representing these public school officials and employees. This committee shall transmit proposed rules regarding the distribution of the remaining 50% of the funds available under this subsection (4) in accordance with 2-5-108.

(5) Subject to the limitation in subsection (1) and except as provided in subsection (7), the trustees shall budget and allocate the oil and natural gas production taxes received by the district as follows:

(a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

(b) oil and natural gas production taxes received by the district must be deposited in the general fund until the limit under subsection (5)(a) is reached; and

(c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.

(7) The provisions of subsections (5) and (6) do not apply to the following:

(a) a district that has a maximum general fund budget of less than $1 million;

(b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(c) a district that has a maximum general fund budget of $1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or

(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

(8) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of

public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying $45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

(9) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall."

Section 3. Section 20-9-517, MCA, is amended to read:

"20-9-517. (Temporary) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are receiving oil and natural gas production taxes under 15-36-331 in an amount less than 20% of the district's maximum general fund budget but that are impacted by oil and natural gas development. *The funds in this account are statutorily appropriated as provided in 17-7-502.*

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(4)(b) ~~and any amounts pursuant to 20-9-104(6)~~.

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) an unusual enrollment decrease;

(c) higher rates of student mobility;

(d) a district's need to hire new teachers or staff as a result of increased enrollment;

(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(f) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed $7.5 million. Any amount over $7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2). (Terminates June 30, 2016—sec. 43, Ch. 400, L. 2013.)

20-9-517. (Effective July 1, 2016) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas

production taxes under 15-36-331 in an amount sufficient to address oil and natural gas development impacts. *The funds in this account are statutorily appropriated as provided in 17-7-502.*

~~(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(4) and any amounts pursuant to 20-9-104(6).~~

~~(3)~~*(2)* A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) an unusual enrollment decrease;

(c) higher rates of student mobility;

(d) a district's need to hire new teachers or staff as a result of increased enrollment;

(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(f) major maintenance for a school or district.

~~(4)~~*(3)* In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection ~~(3)~~ *(2)*.

~~(5)~~*(4)* The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

~~(6)~~*(5)* The amount in the account may not exceed $7.5 million. Any amount over $7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2)."

Section 4. Section 20-9-518, MCA, is amended to read:

"20-9-518. County school oil and natural gas impact fund. (1) The governing body of a county ~~receiving~~ *that has previously received* an allocation under 20-9-310~~(4)(b)~~ shall ~~establish~~ *maintain* a county school oil and natural gas impact fund.

(2) Money *previously* received by a county pursuant to 20-9-310~~(4)(b)~~ must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

(b) the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $65 a barrel. The average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection

(2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.

(b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

(4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. The number of quality educators used for the calculation under this subsection in a district with territory in more than one county must be prorated based on the average number belonging of the district residing in school district territory located in each respective county. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.

(5) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2).

(6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(7) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund."

Section 5. Section 20-9-520, MCA, is amended to read:

"20-9-520. State school oil and natural gas distribution account. (1) There is a state school oil and natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the account is for distribution of the oil and natural gas production revenue exceeding the limitation in 20-9-310(1) ~~to school districts~~ in accordance with 20-9-310(4). *The funds deposited in this account for distribution to school districts and counties under 20-9-310(4) are statutorily appropriated as provided in 17-7-502.*

(2) The department of revenue shall deposit in the account oil and natural gas production taxes that ~~exceeds 130% of a school district's maximum budget~~ *exceed the limitations in 20-9-310*.

(3) The superintendent of public instruction shall distribute the money from the account in accordance with 20-9-310(4) ~~as long as funds remain in the account.~~

~~(4) If funds remain after all of the provisions of 20-9-310(4)(a)(i) through (4)(a)(iv) have occurred, the superintendent of public instruction will deposit the remaining funds in accordance with 20-9-310(4)(b).~~"

Section 6. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 4] is effective July 1, 2016.

Section 7. Termination. [Sections 2, 3, and 4] terminate June 30, 2019.

Approved May 5, 2015

CHAPTER NO. 434

[SB 378]

AN ACT REVISING ELIGIBILITY FOR MONTANA'S INCOME TAX EXEMPTION WITH RESPECT TO SALARIES PAID TO NATIONAL GUARD MEMBERS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 15-30-2117, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2117, MCA, is amended to read:

"15-30-2117. Military salary, veterans' bonus, or death benefit — exemptions. (1) All payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law are exempt from taxation under this chapter. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(2) *(a)* The salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana is exempt from state income tax.

(b) (i) The salary received by residents of Montana for active duty in the national guard is exempt from state income tax.

(ii) For the purposes of this subsection (2)(b), "active duty" means duty performed under an order issued to a national guard member pursuant to:

(A) Title 10 U.S.C.; or

(B) Title 32 U.S.C. for a homeland defense activity, as defined in Title 32 U.S.C. 901, or a contingency operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland defense activity or contingency operation.

(3) The amount received pursuant to 10-1-1114 or from the federal government by a service member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid is considered to be a bonus and is exempt from taxation under this chapter.

(4) The amount received by a beneficiary pursuant to 10-1-1201 is exempt from taxation under this chapter."

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Approved May 5, 2015

CHAPTER NO. 435

[SB 390]

AN ACT REQUIRING THE ECONOMIC AFFAIRS INTERIM COMMITTEE TO CONDUCT AN INTERIM STUDY OF FEES ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AND PROFESSIONAL LICENSING BOARDS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Interim study of fees assessed — governmental agencies — boards. (1) The economic affairs interim committee provided for in 5-5-223 shall conduct a study of fees charged by the department of labor and industry to licensing boards as provided under subsection (2).

(2) The study must include but is not limited to reviewing the following:

(a) fees incurred, calculated, or charged by the department of labor and industry that are:

(i) associated with licensing individuals, including initial licensing, reciprocity, and renewal;

(ii) related to compliance, including inspections and audits; and

(iii) related to any legal or enforcement actions;

(b) costs by the department that are:

(i) direct and indirect costs;

(ii) standardized administrative service costs for license verification, duplicate licenses, late penalty renewals, license lists, and other administrative service costs;

(iii) administrative service costs not related to a specific board or program; and

(iv) legal costs;

(c) whether fees for administrative services are commensurate with the costs of the services provided; and

(d) whether the services provided add value to the work of the boards and contribute to public safety.

Section 2. Appropriation — directions to committee. (1) There is appropriated $7,000 from the state general fund for the biennium beginning July 1, 2015, to the legislative branch for use by the economic affairs interim committee, as provided in subsection (2).

(2) The appropriation must be used to pay for any additional meetings that may be needed to fully carry out the study directives in [section 1]. The committee is encouraged to work within its regular budget as much as possible as part of its duties to monitor the department of labor and industry and its administratively attached licensing boards. The committee also is encouraged to use teleconference capabilities whenever possible to avoid unnecessary travel of board members.

Section 3. Contingent voidness. Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

Section 4. Effective date. [This act] is effective July 1, 2015.

Section 5. Termination. [This act] terminates December 31, 2016.

Approved May 5, 2015

CHAPTER NO. 436

[SB 399]

AN ACT AUTHORIZING THE CREATION OF THE MONTANA ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM; REQUIRING THAT THE PROGRAM COMPLY WITH FEDERAL LAW AUTHORIZING THE PROGRAM; CREATING AN OVERSIGHT COMMITTEE; PROVIDING FOR TAX-EXEMPT SAVINGS ACCOUNTS FOR DISABILITY-RELATED EXPENSES; DESIGNATING QUALIFIED AND NONQUALIFIED WITHDRAWALS; ALLOWING A CHANGE IN BENEFICIARY; PROVIDING FOR SELECTION OF FINANCIAL INSTITUTIONS AND PROGRAM MANAGERS; ALLOWING A DEDUCTION FROM ADJUSTED GROSS INCOME FOR CERTAIN CONTRIBUTIONS TO AN ACCOUNT; PROVIDING FOR A RECAPTURE TAX FOR CERTAIN WITHDRAWALS OF DEDUCTIBLE CONTRIBUTIONS; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONTRACT WITH ANOTHER STATE TO ALLOW MONTANA RESIDENTS ACCESS TO THE OTHER STATE'S 529A PROGRAM; PROVIDING THAT AN ACCOUNT MAY NOT BE COUNTED AS A RESOURCE FOR DETERMINING ELIGIBILITY FOR STATE ASSISTANCE PROGRAMS; CREATING AN ACHIEVING A BETTER LIFE EXPERIENCE SAVINGS TRUST; GRANTING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. This chapter may be cited as the "Montana Achieving a Better Life Experience Act".

Section 2. Purpose. (1) It is the intent of the legislature to give Montana residents access to a program authorized by section 529A of the Internal Revenue Code, 26 U.S.C. 529A, to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, federal and state medical and disability insurance, a beneficiary's employment, and other sources.

(2) The legislature further intends that the department achieve this purpose by:

(a) creating the Montana achieving a better life experience program, which is a public-private partnership using selected financial institutions to serve as depositories for individuals' savings accounts established pursuant to this act; or

(b) contracting with another state that has a program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A, and that allows Montana residents to participate in the state's program.

Section 3. Definitions. As used in this chapter, the following definitions apply:

(1) "Account" means an eligible participating account established under this chapter by or on behalf of an eligible individual.

(2) "Account owner" means the designated beneficiary of the account.

(3) "Annual contribution limit" means the limit established in section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2).

(4) "Application" means a form executed by or on behalf of a prospective account owner to enter into a participating trust agreement and open an account. The application incorporates the participating trust agreement by reference.

(5) "Committee" means the achieving a better life experience program oversight committee established in [section 5].

(6) "Contribution" means a payment to an account for the benefit of a designated beneficiary.

(7) "Department" means the department of public health and human services provided for in 2-15-2201.

(8) "Designated beneficiary" means the eligible individual on whose behalf an account is established.

(9) "Disability certifications" means disability certifications as defined in section 529A(e)(2) of the Internal Revenue Code, 26 U.S.C. 529A(e)(2).

(10) "Eligible individual" means an eligible individual as defined in section 529A(e)(1) of the Internal Revenue Code, 26 U.S.C. 529A(e)(1).

(11) "Financial institution" means a bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that is authorized to do business in this state.

(12) "Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(13) "Member of the family" means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529A(e)(4) of the Internal Revenue Code, 26 U.S.C. 529A(e)(4).

(14) "Nonqualified withdrawal" means a withdrawal from the account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death of the designated beneficiary of an account; or

(c) a rollover distribution or a change of designated beneficiary described in [section 8].

(15) "Participating trust agreement" means an agreement between an account owner and the department or its designee that creates a trust interest in the trust and provides for participation in the program.

(16) "Program" means the Montana achieving a better life experience program provided for in [sections 1 through 15] and authorized under section 529A of the Internal Revenue Code, 26 U.S.C. 529A.

(17) "Program administrator" means the person appointed or contracted by the department to administer the daily operations of the program and provide marketing, recordkeeping, investment management, and other services for the program.

(18) "Program manager" means a financial institution that acts as an agent of the trust as provided in [section 9].

(19) "Qualified disability expenses" means qualified disability expenses as defined in section 529A(e)(5) of the Internal Revenue Code, 26 U.S.C. 529A(e)(5).

(20) "Qualified withdrawal" means a withdrawal from an account to pay the qualified disability expenses of the beneficiary of the account. A qualified withdrawal may be made by the beneficiary, by an agent of the beneficiary who has a power of attorney for the beneficiary, or by the beneficiary's legal guardian.

(21) "Rollover distribution" means a transfer of funds made:

(a) from one account in another state's qualified program to an account for the benefit of the same designated beneficiary or an eligible individual who is a family member of the former designated beneficiary; or

(b) from one account to another account for the benefit of an eligible individual who is a family member of the former designated beneficiary.

(22) "Trust" means the achieving a better life experience savings trust as provided in [section 15].

(23) "Trustee" means the department in its capacity as trustee of the trust.

(24) "Trust interest" means an account owner's interest in the trust created by a participating trust agreement and held for the benefit of a designated beneficiary.

Section 4. Program administration — rulemaking. (1) If the department creates the Montana achieving a better life experience program, it shall ensure that the program meets the requirements for an achieving a better life experience program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A. The program administrator may request a private letter ruling from the internal revenue service or the United States secretary of health and human services and shall take any necessary steps to ensure that the program qualifies under federal law.

(2) The department may contract with an independent service provider as program administrator, in consultation with the committee. In considering potential independent service providers, the department shall consider each prospective provider's prior experience with disabled individuals and programs for disabled individuals, along with its other qualifications. If the department appoints one of its employees to act as program administrator, the department may contract with independent service providers to provide services including but not limited to establishing accounts, providing information about investment choices, meeting notice requirements, providing account statements, and other services typically utilized by investment and savings plans. The department may require participating financial institutions to pay the costs of the independent service provider.

(3) The department may implement the program by contracting with another state as provided under 26 U.S.C. 529A(e)(7). If the department creates the program, it shall:

(a) establish by rule the terms and conditions of the program subject to the requirements of this chapter and section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) as required under section 529A(d) of the Internal Revenue Code, 26 U.S.C. 529A(d), require the program administrator to submit:

(i) upon the establishment of each account, a notice to the United States secretary of the treasury containing the name and state of residence of the

designated beneficiary and any other information the secretary may require; and

(ii) electronically on a monthly basis to the United States commissioner of social security, statements on the relevant distributions and account balances of all accounts in the state.

(4) If the department creates the Montana achieving a better life experience program, the department may contract with other states to allow the residents of those states access to the program.

(5) If the department contracts with another state to allow Montana residents access to the other state's program, the department shall ensure that the state's program complies with the requirements of 26 U.S.C. 529A.

Section 5. Achieving a better life experience program oversight committee — membership — powers and duties. (1) If the department creates the Montana achieving a better life experience program, there must be a program oversight committee under the authority of the department.

(2) The committee must consist of five members as follows:

(a) the director of the department of public health and human services or the director's designee;

(b) the director of the department of administration or the director's designee; and

(c) three members of the general public, one of whom possesses knowledge, skill, and experience in accounting, risk management, or investment management or as an actuary and two of whom have experience working on behalf of disabled individuals.

(3) (a) Except as provided in subsection (3)(b), the governor shall appoint the public members of the committee to staggered terms of 4 years. The members are not subject to senate confirmation.

(b) The governor shall make the initial appointment of the public members as follows:

(i) one person to serve a 2-year term;

(ii) one person to serve a 3-year term; and

(iii) one person to serve a 4-year term.

(4) The committee shall select a presiding officer and a vice presiding officer from among the committee's membership.

(5) A majority of the membership constitutes a quorum for the transaction of business. The committee shall meet at least once a year, with additional meetings called by the presiding officer.

(6) The committee:

(a) shall recommend financial institutions for approval by the department to act as the managers of accounts as provided in [section 9]; and

(b) may submit proposed policies to the department to help implement and administer [sections 1 through 15].

(7) The committee is allocated to the department for administrative purposes only, as provided in 2-15-121.

(8) Members of the committee must be compensated as provided in 2-15-124.

Section 6. Program requirements — application — establishment of account — contributions. (1) The program must be operated through use of accounts in the trust established by account owners. Payments to the trust for participation in the program must be made by or on behalf of account owners

pursuant to participating trust agreements. A person who wishes to participate in the program and open an account into which funds will be deposited to pay the qualified disability expenses of a designated beneficiary shall:

(a) enter into a participating trust agreement pursuant to which an account of the trust will be established;

(b) complete an application on a form prescribed by the department that includes:

(i) the name, address, and social security number or employer identification number of the contributor;

(ii) the name, address, and social security number of the account owner if the account owner is not the contributor;

(iii) the name, address, and social security number of the designated beneficiary;

(iv) the certification relating to no excess contributions adopted by the department;

(v) the designation of the financial institution with which the funds in the account will be invested; and

(vi) any other information required by the department;

(c) pay the one-time application fee established by the department;

(d) make the minimum contribution required by the department; and

(e) designate the type of account to be opened if more than one type of account is offered.

(2) The designated beneficiary of an account must be a resident of Montana or a resident of a state that has entered into a contract with Montana to provide its residents access to the program.

(3) Each account must be maintained separately from each other account under the program.

(4) Separate records and accounting must be maintained for each account for each designated beneficiary.

(5) Contributions to an account are subject to the requirements of section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2), prohibiting noncash contributions and contributions in excess of the annual contribution limit.

(6) A contributor to, account owner of, or designated beneficiary of an account may not direct the investment of any contributions to an account or the earnings generated by an account in violation of section 529A of the Internal Revenue Code, 26 U.S.C. 529A, and may not pledge the interest of an account or use an interest in an account as security for a loan.

(7) The financial institution shall provide statements to account owners whose accounts are invested with the institution at least once each year within 31 days after the 12-month period to which they relate. Each statement must identify the contributions made during the preceding 12-month period, the total contributions made through the end of the period, the value of the account as of the end of the period, distributions made during the period, and any other matters that the department requires to be reported to the account owner.

(8) Statements and information returns relating to accounts must be prepared and filed to the extent required by federal or state tax law or by administrative rule.

(9) Application fees provided for in subsection (1)(c) must be deposited in the state special revenue fund to the credit of the department for the administration of the achieving a better life experience program.

Section 7. Qualified and nonqualified withdrawals — rulemaking. (1) An account owner may withdraw all or part of the balance from an account under rules prescribed by the department. The rules must be used to help the department or program administrator to determine whether a withdrawal is a nonqualified withdrawal or a qualified withdrawal to the extent that the department concludes that it is necessary for the department or program administrator to make that determination.

(2) Upon the death of an account owner, any amount remaining in the account must be distributed pursuant to section 529A(f) of the Internal Revenue Code, 26 U.S.C. 529A(f).

(3) An account owner may request a nonqualified withdrawal at any time. Nonqualified withdrawals are subject to a federal additional tax pursuant to section 529A of the Internal Revenue Code, 26 U.S.C. 529A.

(4) If a distribution is made from an account to any person or for the benefit of any person during a calendar year, the distribution must be reported to the internal revenue service and to the account owner or the designated beneficiary to the extent required by federal law.

Section 8. Changes in designated beneficiary. (1) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the department.

(2) If requested by an account owner, all or a portion of an account may be transferred through a rollover distribution to another account for which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

(3) Changes in designated beneficiaries and rollover distributions under this section are not permitted if the changes or rollover distributions would violate:

(a) the excess contributions provisions adopted by the department; or

(b) the investment choice provisions of [section 9].

Section 9. Selection of financial institution as program manager — contract — termination. (1) The department shall implement the operation of the program through the use of one or more financial institutions to act as program manager. Under the program, a person may submit applications for enrollment in the program and participating trust agreements to a program manager and establish accounts in the trust at the location of or through the program manager. An account owner may deposit money in an account in the trust by paying the money to a program manager, who shall accept the money as an agent for the trust. Accounts may be invested in one or more investment products approved by the department.

(2) The committee shall solicit proposals from financial institutions to act as program managers. Financial institutions that submit proposals shall describe the investment products that they propose to offer through the program.

(3) The committee shall recommend as program manager or program managers the financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and to this state, of:

(a) financial stability and integrity;

(b) the safety of the investment products being offered, taking into account any insurance provided with respect to these products;

(c) the ability of the financial institution, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;

(d) the financial institution's plan for promoting the program and the investment that it is willing to make to promote the program. The cost of promotional efforts may not be funded with fees imposed on account owners.

(e) the fees, if any, proposed to be charged to persons for maintaining accounts;

(f) the minimum initial deposit and minimum contributions that the financial institution will require and the willingness of the financial institution or its subcontractors to accept contributions through payroll deduction plans and other deposit plans; and

(g) any other benefits to this state or its residents contained in the proposal, including an account opening fee payable to the department by the account owner to cover operating expenses of the program and any additional fee offered by the financial institution for statewide program marketing by the department.

(4) The department shall consider the committee's recommendations and the factors provided in subsection (3) when selecting program managers.

(5) The department shall enter into a contract with a financial institution to serve as program manager or, pursuant to subsection (6), into contracts with more than one financial institution to serve as program managers. Each contract must provide the terms and conditions by which the financial institution, as an agent of the trust, may assist in selling interests in the trust and the manner in which funds of an account that are designated for investment with or through the financial institution will be invested.

(6) The department may select more than one financial institution to serve as program manager. The department may select more than one kind of investment product to be offered through the program. Any decision on the use of multiple financial institutions or multiple investment products must take into account:

(a) the requirements for qualifying as a qualified program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) the differing needs of contributors regarding risk and potential return of investment instruments; and

(c) the administrative costs and burdens that may be imposed as the result of the decision.

(7) A program manager or its subcontractor shall:

(a) take action required to keep the program in compliance with its contract or the requirements of this chapter to manage the program so that it is treated as a qualified program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) keep adequate records of each account, keep each account segregated from each other account, and provide the department with the information necessary to prepare statements;

(c) if there is more than one program manager, provide the department with the information necessary to help the department determine compliance with rules adopted by the department and to comply with any state or federal tax reporting requirements;

(d) provide representatives of the department, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract. At least once during the term of any contract, the department, its contractor, or the state agency responsible for examination oversight of the program manager shall conduct an examination to the extent needed to determine compliance with the contract.

(e) hold account funds invested by or through the financial institution in the name of and for the benefit of the trust and the account owner; and

(f) assist the trustee with respect to any federal or tax filing requirements relating to the program and with respect to any other obligations of the trustee.

(8) A person may not circulate a description of the program, whether in writing or through the use of any media, unless the department or its designee first approves the description.

(9) A contract executed between the department and a financial institution pursuant to this section must be for a term of at least 3 years and not more than 7 years.

(10) If the department determines not to renew the appointment of a financial institution as program manager, the department may take action consistent with the interest of the program and the accounts and in accordance with its duties as trustee of the trust. Except as provided in subsection (11), if a contract executed between the department and a financial institution pursuant to this section is not renewed, at the end of the term of the nonrenewed contract:

(a) accounts previously established through the efforts of the financial institution may not be terminated by the trustee or department and additional contributions may be made to those accounts;

(b) the funds in new accounts established after the termination may not be invested by or through the financial institution unless a new contract is executed;

(c) account funds invested by or through the financial institution must continue to be invested in the financial products in which they were invested prior to the nonrenewal unless the account owner selects a different investment product; and

(d) the continuing role of the financial institution must be governed by rules or policies established by the department or a special contract and all services provided by the financial institution to accounts continue to be subject to the control of the department as trustee of the trust with responsibility for all accounts in the program.

(11) (a) The department may terminate a contract with a financial institution or prohibit the continued investment of funds by or through a financial institution under subsection (10) at any time for good cause on the recommendation of the committee. If a contract is terminated or an investment is prohibited pursuant to this subsection (11), the trustee shall take custody of account funds or assets held at that financial institution and shall seek to promptly reinvest the funds or assets by or through another financial institution that is selected as a program manager by the department and into the same investment products or into investment products selected by the department that are as similar as possible to the original investments.

(b) Prior to taking the actions described in subsection (11)(a), the department shall give account owners notice of the termination and a reasonable period of time, not to exceed 30 days, to voluntarily terminate the

account invested by or through the financial institution or to direct that the account be invested with or through another program manager.

(c) If the termination of a program manager causes an emergency that might lead to a loss of funds to any account owner, the department or trustee may take whatever emergency action is necessary or appropriate to prevent the loss of funds invested pursuant to this chapter. After taking emergency action, the department shall provide notice and opportunity for action to account owners as provided in subsection (11)(b).

Section 10. Limitations. (1) This chapter may not be construed to:

(a) give a designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner; or

(b) establish state residency for a person merely because the person is a designated beneficiary.

(2) This chapter does not establish any obligation of this state or of an agency or instrumentality of this state to guarantee for the benefit of an account owner, a contributor to an account, or a designated beneficiary:

(a) the return of any amounts contributed to an account;

(b) the rate of interest or other return on an account; or

(c) the payment of interest or other return on an account.

(3) Under rules adopted by the department, each contract, application, and offering or disclosure document, and any other type of document identified by the department that may be used in connection with a contribution to an account, must clearly indicate that the account is not insured by the state and that the principal deposited and any investment return are not guaranteed by the state.

Section 11. Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-2110(12), by the total amount of the contributions, but not more than $3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident.

Section 12. Tax on certain withdrawals of deductible contributions. (1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that reduced adjusted gross income under 15-30-2110(12).

(2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross income, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529A(c)(3) of the Internal Revenue Code, 26 U.S.C. 529A(c)(3). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced adjusted gross income, to the extent of those contributions, and then to contributions that did not reduce adjusted gross income.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the

time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department of revenue may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's adjusted gross income unless the contributor can demonstrate that all or a portion of the contributions did not reduce adjusted gross income. Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.

(5) The department of revenue shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section.

(6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal.

Section 13. Access to records. Information that identifies the contributor, account owner, or designated beneficiary of an account is exempt from the provisions of 2-6-102 and 2-6-104 and any other provision of law permitting the public inspection or copying of documents.

Section 14. Account not counted as resource. Unless required by federal law or regulation, money in any account established pursuant to 26 U.S.C. 529A may not be counted as a resource in determining eligibility for an assistance program operated under Title 53 or any other federal, state, or local government means-tested program.

Section 15. Achieving a better life experience savings trust. (1) If the department creates the Montana achieving a better life experience program, there is an achieving a better life experience savings trust that is an instrumentality of the state and that is created for a public purpose. The trust consists of trust interests, with each trust interest corresponding to an account. The assets of an account may not be commingled with the assets of any other account. The assets and earnings of an account may not be used to satisfy the obligations of any other account. Each account represents a trust interest in the trust and includes amounts received by the program from account owners pursuant to the participating trust agreement and the interest and investment income earned by the trust account.

(2) The assets of the trust consist of investments and earnings on investments of funds received by the program as deposits to accounts and as amounts transferred to the trust from accounts established prior to October 1, 2015.

(3) In accordance with the instructions of the account owner, the trustee shall invest funds deposited in each account in permitted investment products as provided in this chapter. The trustee or a financial institution acting as an agent of the trustee shall pay or apply funds from each account for qualified withdrawals, nonqualified withdrawals, penalties, and withholdings.

(4) An account owner may execute a participating trust agreement and have funds that are held by financial institutions in accounts established prior to October 1, 2015, transferred to the trust and to the transferor's account.

Section 16. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection ~~(13)~~ *(14)*, adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is

required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the

Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The

provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in [section 12].

~~(12)~~*(13)* (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection ~~(12)(a)(iv)~~ *(13)(a)(iv)*, not to exceed $5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection ~~(12)(b)~~ *(13)(b)* as an incentive to practice in Montana.

(b) For the purposes of subsection ~~(12)(a)~~ *(13)(a)*, a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

~~(13)~~*(14)* Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

~~(14)~~*(15)* By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 17. Transition. The department of public health and human services shall take all steps necessary to implement the program to allow accounts to be opened and contributions to be made no later than November 1, 2015.

Section 18. Codification instruction. [Sections 1 through 15] are intended to be codified as an integral part of Title 53, and the provisions of Title 53 apply to [sections 1 through 15].

Section 19. Effective date. [This act] is effective on passage and approval.

Section 20. Retroactive applicability. [Sections 11, 12, and 16] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014.

Approved May 5, 2015

CHAPTER NO. 437

[SB 401]

AN ACT REVISING BOXING LAWS; CLARIFYING THE USE OF DEPARTMENT REPRESENTATIVES AT PROFESSIONAL BOXING EVENTS; ESTABLISHING GUIDELINES FOR MEDICAL EXAMINATIONS PRIOR TO EVENTS AND FOR LICENSURE; ALLOWING VENUE OWNERS AND PROMOTERS TO DETERMINE THE NEED FOR SECURITY PERSONNEL; ESTABLISHING LICENSE FEES; AMENDING SECTIONS 23-3-402, 23-3-404, 23-3-405, AND 23-3-501, MCA; REPEALING SECTIONS 23-3-502, 23-3-601, AND 23-3-602, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-3-402, MCA, is amended to read:

"23-3-402. Enforcement of rules. (1) The department may ~~designate in writing~~ *appoint* a representative to act specifically on behalf of the department but only within the scope of the ~~written~~ authority *granted by the department*.

(2) The representative shall attend and supervise a professional boxing event and has the authority from the department to enforce rules adopted under this chapter.

(3) The representative may be a volunteer with extensive experience in boxing and may perform duties of the department under this chapter and administrative rule including but not limited to:

(a) accepting documentation;

(b) vetting contestants;

(c) issuing licenses at events;

(d) supervising weigh-ins and ringside physicals; and

(e) inspecting gloves and handwrapping."

Section 2. Section 23-3-404, MCA, is amended to read:

"23-3-404. Jurisdiction — license required — contestant participation. (1) ~~The~~ *The* department has sole management, control, and jurisdiction over each professional boxing event involving recognition, a prize, or a purse and at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, to be held within the state. *The department may accept private donations for the costs of administering the boxing program. Donations received by the department for this purpose must be deposited in the state special revenue fund for the use of the boxing program.*

(2) An organization or individual may not conduct a professional boxing event within the department's jurisdiction unless the organization or individual is the holder of an appropriate license granted by the department.

(3) A referee, manager, or judge may not participate in a professional boxing event within the department's jurisdiction unless:

(a) the individual is licensed by the department; and

(b) the professional boxing event is conducted by an organization or individual licensed by the department.

(4) A contestant may not participate in a professional boxing event within the department's jurisdiction unless:

(a) the contestant is licensed by the department;

(b) the professional boxing event is conducted by an organization or individual licensed by the department; ~~and~~

(c) the department has not suspended the right of the contestant to participate under 23-3-603*; and*

(d) the contestant submits laboratory documentation of negative HIV, hepatitis B, and hepatitis C tests. The department may not require blood tests to be administered less than 1 year prior to the event and may not require eye dilation as part of the prefight physical."

Section 3. Section 23-3-405, MCA, is amended to read:

"23-3-405. Rules. (1) The department may adopt rules for the administration and enforcement of this chapter *in consultation with the boxing community.*~~.~~

(2) (a) The rules must include the granting, suspension, and revocation of licenses and the qualification requirements for those to be licensed to conduct professional boxing events or to be licensed as referees, managers, or judges. License qualifications must include appropriate knowledge, experience, and integrity.

(b) The rules may include but are not limited to the following:

(i) the labeling of a match as a championship match;

(ii) the number and length of rounds and the weight of gloves. *The rules may not require new gloves for a match unless the referee or inspector determines that new gloves are required for the safety of the contestants*~~;~~.

(iii) the extent and timing of the physical examination of contestants;

(iv) the attendance of a referee and the referee's powers and duties; and

(v) review of decisions made by officials.

(3) The rules must:

(a) meet or exceed the safety codes required by recognized professional boxing organizations conducting professional boxing events;

(b) provide reasonable measures for the fair conduct of the professional boxing events ~~and for the protection of the health and safety of the contestants~~;

(c) ~~require~~ *provide for the protection of the health and safety of contestants by requiring* a physical examination of each contestant prior to each professional boxing event~~;~~. *This physical examination may be conducted by the medical professional in attendance pursuant to subsection (2)(e).*

(d) provide for the qualifications of judges, referees, and seconds and for their payment by the promoter; ~~and~~

(e) provide for the attendance at ringside of one or more of the following and require the promoter to pay for that person's attendance:

(i) a licensed physician as defined in 37-3-102;

(ii) a licensed physician assistant as defined in 37-20-401; or

(iii) a licensed advanced practice registered nurse as defined in 37-8-102*; and*

(f) allow venue owners and promoters to determine the necessity for security personnel or volunteers."

Section 4. Section 23-3-501, MCA, is amended to read:

"23-3-501. Licenses — fees. (1) The department may issue a promoter's license to an individual for the sole purpose of conducting professional boxing events.

(2) The department may issue licenses to qualified referees, managers, ~~contestants,~~ seconds, trainers, and judges.

(3) The department may issue licenses to qualified contestants. The qualifications for contestants may not require:

(a) blood testing to be documented sooner than 1 year prior to the license application; or

(b) eye dilation.

~~(3)~~*(4)* A license issued in accordance with subsections (1) ~~and (2)~~ *through (3)* expires on the date set by department rule.

~~(4)~~*(5)* Each application for a license under this section must be accompanied by a fee~~, as provided in 37-1-134, set by the department.~~ *as provided in 37-1-134, set by the department.*"

Section 5. Event license required — fee — rulemaking. (1) A professional boxing event may not be conducted without a license issued pursuant to this section.

(2) Only a licensed promoter may apply for an event license. An event may consist of one or more bouts or matches between contestants conducted within a 24-hour period.

(3) The department shall establish the fee for an event license by rule.

(a) The license fee must be adequate to fund the expenses and expenditures of the department that are reasonably attributable to the licensing and regulation of the event that is licensed.

(b) The rule may specify that the fee charged may vary from event to event, based upon the location and nature of the event being licensed, and the relative level of expense involved with adequately regulating the specific event.

(c) The department may, by rule, allow the promoter to decrease the amount of the license fee payable to the department by directly contracting for, or otherwise obtaining, certain services incident to the proper regulation of the event.

(4) The department may, by rule, specify the timing of the payment of the event license fee, and may require that some or all of the license fee be paid in advance of the event. The department shall obtain reasonable sureties or security to guarantee the payment of the full amount of the event license fee by the promoter.

Section 6. Repealer. The following sections of the Montana Code Annotated are repealed:

23-3-502. Bond — conditions.

23-3-601. Report of ticket sales — tax on gross receipts — disposition of money received.

23-3-602. Examination of books and records on failure to make report or on unsatisfactory report — penalty for failure to pay tax.

Section 7. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 23, chapter 3, and the provisions of Title 23, chapter 3, apply to [section 5].

Section 8. Effective date. [This act] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 438

[SB 418]

AN ACT AUTHORIZING TRANSFERS AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; REVISING LAWS GOVERNING STATE EMPLOYEE COMPENSATION; PROVIDING LEGISLATIVE POLICY ON MENTAL HEALTH INVESTMENTS AS SET FORTH IN THE GENERAL APPROPRIATIONS ACT; PROVIDING FOR LEGISLATIVE INTENT REGARDING THE IMPLEMENTATION OF SENATE BILL NO. 405; AMENDING SECTIONS 2-18-301, 2-18-303, 2-18-703, 2-18-812, AND 87-1-625, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfers. (1) By June 1, 2015, there is transferred $1.35 million from the oil and gas education and research account to the natural resources operations account within the state special revenue fund.

(2) By June 30, 2015, there is transferred up to $2.25 million from the county oil and gas impact account within the state special revenue fund to the state general fund.

Section 2. Legislative policy statement for mental health investments for 2017 biennium. (1) Pursuant to 53-21-101, in its treatment of the seriously mentally ill, it is the policy of the state of Montana to:

(a) provide each person who is suffering from a mental disorder and who requires commitment the care and treatment suited to the needs of the person and to ensure that the care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) accomplish this goal whenever possible in a community-based setting;

(c) accomplish this goal in an institutionalized setting only when less restrictive alternatives are unavailable or inadequate and only when a person is suffering from a mental disorder and requires commitment; and

(d) ensure that due process of law is accorded any person coming under the provisions of this part.

(2) In order to achieve this policy, the legislature directs the department of public health and human services to meet the following objectives:

(a) to support a community-based system of care that is demonstrated through increased utilization of community-based crisis intervention services to reduce short-term admissions to the Montana state hospital;

(b) to provide and reimburse for effective prevention and treatment that enables sustainable recovery in communities, evidenced through quality assurance activities and analyses. The addictive and mental disorders division shall evaluate the delivery of recovery-focused services by providers.

(c) to improve outcomes for individuals with serious mental illness and co-occurring substance use disorders, demonstrated through data collection on individual client outcomes for recovery markers and performance measures; and

(d) to improve collaboration between community mental health providers, nursing homes, and state facilities, demonstrated through an increase in state facility discharge rates with a corresponding decrease in client recidivism to state facilities.

(3) The children, families, health, and human services interim committee shall monitor and evaluate the department's implementation of the objectives identified in this section and provide to the 65th legislature a report that outlines the status of implementation and identifies areas where continued improvement is necessary.

Section 3. Legislative intent. (1) It is the intent of the legislature that the office of budget and program planning use the statewide accounting, budgeting, and human resource system to capture savings in House Bill No. 2 generated due to the implementation of Senate Bill No. 405.

(2) After medicaid expansion as authorized in Senate Bill No. 405 is implemented, the office of budget and program planning shall calculate the general fund, state special revenue, and federal special revenue savings for each fiscal year attributable to the health insurance flexibility and accountability waiver, the federal medical assistance percentage for the medically needy, new rates for facility outside medical costs, and all net reductions in House Bill No. 2 for fiscal year 2016 and/or fiscal year 2017, transfer the savings to a separate subclass, and designate the subclass as frozen so that the generated savings may not be spent.

(3) For fiscal year 2016, the amount frozen will be determined by a pro rata share of months left in the fiscal year upon implementation. For fiscal year 2016, if savings are less than the remaining share of $11,763,918 general fund, the budget director is authorized to unfreeze appropriations necessary to prevent a supplemental request.

(4) It is the intent of the legislature that the savings revert to the fund from which they were appropriated and are subject to appropriation by future legislatures as applicable.

(5) The legislative finance committee shall review the assumptions used in the office of budget and program planning's calculations for reductions and the specific cost offsets identified by the office.

Section 4. Conditions for state employee group benefit plans. As a condition for the expenditure of the funding for the biennium beginning July 1, 2015, for the state employee group benefit plans, the department of administration shall consider cost containment measures. Options for cost containment measures include but are not limited to:

(1) reviewing and consulting with appropriate experts on the following:

(a) improving primary care case management and coordinated care to improve medical outcomes and reduce costs;

(b) sharing data with providers to identify and reduce inappropriate use or overuse of services;

(c) implementing pilot programs to improve health outcomes, such as programs for addressing pain management, emergency department use, and drug or alcohol addiction or abuse;

(d) increasing the cost-efficiency of the state health clinics, including recommendations for services and controls on or review of referrals;

(e) implementing a network-based or reference-based pricing arrangement, or both, with health care facilities, health care providers, and medical transport providers, considering a multiple of medicare rates to establish a contract of network providers or as a reference-based pricing model for the arrangement; and

(f) amending contracts, to the extent possible, for the state health clinics to require copayments equal to the copayments required by the state employee group benefit plans for similar services; and

(2) requiring a contractor or third-party administrator to provide data analytics, professional expertise, and recommendations for improvement of the state employee group benefit plans to the department, the state employee group benefits advisory council, and the legislative finance committee.

Section 5. Section 2-18-301, MCA, is amended to read:

"2-18-301. Intent of part — rules. (1) It is the intent of the legislature that compensation plans for state employees, excluding those employees excepted under 2-18-103 or 2-18-104, be based*, in part,* on an analysis ~~and comparison of the municipal and state government labor markets in North Dakota, South Dakota, Idaho, and Wyoming~~ *of the labor markets* as provided by the department ~~from the national compensation association of state governments salary survey and other information relative to the state government salaries and compensation in those states. For the biennium beginning July 1, 2013, the department shall determine this information before pay raises are implemented. For legislative sessions following the biennium beginning July 1, 2013, the department shall submit to the office of budget and program planning as a part of the information required by 17-7-111~~ *in a biennial salary survey. The salary survey must be submitted to the office of budget and program planning as a part of the information required by 17-7-111.*~~:~~

~~(a) an analysis of how Montana government employee salaries and other compensation compare to the municipal and state government salaries in North Dakota, South Dakota, Idaho, and Wyoming; and~~

~~(b) an analysis of the labor market as determined by the department in a biennial salary survey.~~

(2) Pay adjustments, if any, provided for in 2-18-303 supersede any other plan or systems established through collective bargaining after the adjournment of the legislature.

(3) Total funds required to implement the pay increases, if any, provided for in 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the legislature.

(4) The department shall administer the pay program established by the legislature on the basis of competency, internal equity, and competitiveness to ~~the municipal and state government labor markets in North Dakota, South Dakota, Idaho, and Wyoming. The intent is to bring all pay bands to the same relationship percentage of the market rate midpoint salary comparison~~ *the external labor market* when fiscally able.

(5) The broadband pay plan must consist of nine pay bands. Each pay band must contain a salary range with a minimum salary and a maximum salary.

(6) Based on the biennial salary survey, the department shall:

(a) identify current market rates for all occupations;

(b) establish salary ranges for each pay band; and

(c) recommend competitive pay zones ~~with the municipal and state government labor markets in North Dakota, South Dakota, Idaho, and Wyoming using the national compensation association of state governments salary survey and other relevant information for those states~~.

(7) The department may promulgate rules not inconsistent with the provisions of this part, collective bargaining statutes, or negotiated contracts to carry out the purposes of this part.

(8) Nothing in this part prohibits the board of regents from engaging in negotiations with the collective bargaining units representing the classified staff of the university system."

Section 6. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for administering broadband pay plan. (1) On the first day of the first complete pay period in fiscal year ~~2014~~ *2016*, each employee is entitled to the amount of the employee's base salary as it was on June 30, ~~2013~~ *2015*.

(2) An employee's base salary may be no less than the minimum salary of the pay band to which the employee's position is allocated.

(3) ~~Funds appropriated under section 4, Chapter 385, Laws of 2013, must be used to increase the base pay for each employee. The base pay of employees must be increased as determined by the executive branch, including those subject to the provisions of Title 39, chapter 31, with particular attention to the lower pay bands and those who did not receive a base pay increase during the biennium beginning July 1, 2011.~~ *Effective on the first day of the first complete pay period that includes January 15, 2016, the base salary of each employee must be increased by 50 cents an hour. Effective on the first day of the first complete pay period that includes January 15, 2017, the base salary of each employee must be increased by 50 cents an hour.*

(4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection (3) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a collective bargaining agreement.

(ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.

(5) (a) Montana highway patrol officer base salaries must be established through the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol officer positions must then be determined by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The department of justice shall submit the salary survey to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session."

Section 7. Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) *(a)* For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is ~~$733~~ *$887* a month from January ~~2011~~ *2015* through December ~~2013~~ *2015*, ~~$806~~ *$976* a month from January ~~2014~~ *2016* through December ~~2014~~ *2016*, and ~~$887~~ *$1,054 a month* ~~for~~ *from* January ~~2015~~ *2017* ~~and for each succeeding month~~ *through December 2017*.

(b) For employees defined in 2-18-701 and for members of the legislature, beginning January 2018 and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(c) For employees of the Montana university system, the employer contribution for group benefits is ~~$806~~ *$887* a month from July ~~2013~~ *2014* through June ~~2014~~ *2016* and ~~$887~~ *$1,054* a month from July ~~2014~~ *2016* ~~and for each succeeding month~~ *through the earlier of:*

(i) June 2018; or

(ii) the month before the first month in which the excise tax under 26 U.S.C. 4980I applies.

(d) For employees of the Montana university system, beginning the earlier of July 2018 or the first month in 2018 in which the excise tax under 26 U.S.C. 4980I applies, and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e) If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305 and to the protections of 2-18-1205. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts, the employer's contributions may exceed but may not be less than $10 a month.

(4) (a) For employees of political subdivisions, as defined in 2-9-101, except school districts, the employer's contributions may exceed but may not be less than $10 a month.

(b) Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits as determined in subsection (4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.

(c) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(ii) If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual contribution for each employee in the first year the political subdivision provides contributions for group benefits times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(iii) If a political subdivision has made contributions for group benefits but has not previously levied for contributions in excess of the base contribution, the political subdivision's base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.

(5) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(6) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(7) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

Section 8. Section 2-18-812, MCA, is amended to read:

"2-18-812. Alternatives to conventional insurance for providing state employee group benefits authorized — requirements. The department may establish alternatives to conventional insurance for providing state employee group benefits. The requirements for providing alternatives to conventional insurance are as follows:

(1) The department shall maintain state employee group benefit plans on an actuarially sound basis.

(2) The department shall maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of state employee group benefit plans.

(3) The department shall deposit all reserve funds and premiums paid to a state employee group benefit plan account within the state self-insurance reserve fund, and the deposits must be expended for claims under the plan.

(4) The department shall deposit income earned from the investment of a state employee group benefit plan's reserve fund into the account established under subsection (3) in order to offset the costs of administering the plan. ~~Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.~~

(5) The department shall deposit into the account provided for in subsection (3) all portions of a state employee's salary designated by the employee to be withheld for the purposes of flexible spending account benefits as well as any employee-designated portion of the employer contribution for group benefits provided for in 2-18-703 that is not required to be used for mandatory or elected benefits. Income earned on the deposits must be retained within the account and used for the purposes provided in this subsection. The money deposited and income earned on the deposits must be used for:

(a) payment of claims made by the employee;

(b) payment of reasonable costs of administration of the flexible spending account program;

(c) offsetting losses of the flexible spending account program; and

(d) reducing administration fees collected from participants in the program.

(6) The department shall, prior to implementation of any alternative to conventional insurance, present to the advisory council the evidence upon which the department has concluded that the alternative method will be more efficient, less costly, or otherwise superior to contracting for conventional insurance.

(7) Except as otherwise provided in Title 33, chapter 18, part 9, the provisions of Title 33 do not apply to the department when exercising the powers and duties provided for in this section."

Section 9. Section 87-1-625, MCA, is amended to read:

"87-1-625. Funding for wolf management. (1) The department shall allocate ~~$900,000~~ *$500,000* annually for wolf management.

(2) For the purposes of this section, the term "management" has the same meaning provided in 87-5-102 and includes:

(a) wolf collaring conducted pursuant to 87-5-132; and

(b) lethal action conducted pursuant to 87-1-217 to take problem wolves that attack livestock.

(3) Not more than 25% of the total funding allocated under this section may be used for administrative costs.

(4) Pursuant to 87-1-201, the department may allocate funds from any source to meet the requirements of this section.

(5) The department may contract with the United States department of agriculture wildlife services and county governments for the purposes of this section."

Section 10. Coordination instruction. If both Senate Bill No. 20 and [this act] are passed and approved, then [section 4 of Senate Bill No. 20] must be amended as follows:

"NEW SECTION. **Section 4. Effective Date.** [This act] is effective July 1, ~~2015~~ *2016*."

Section 11. Coordination instruction — funding from state special revenue account instead of general fund. If House Bill No. 2, Senate Bill No. 405, and [this act] are passed and approved, and if House Bill No. 2

appropriates an amount equal to or greater than $1,761,476 from the employment security account provided for in 39-51-409 to the department of labor and industry for the biennium beginning July 1, 2015, for the restricted purposes of [sections 14 through 17 of Senate Bill No. 405], then:

(1) [section 22(1)(a) of Senate Bill No. 405] is void; and

(2) the appropriation in House Bill No. 2 from the employment security account provided for in 39-51-409 to the department of labor and industry for the purposes of [sections 14 through 17 of Senate Bill No. 405] must be considered base funding for the preparation of the budget for the biennium beginning July 1, 2017.

Section 12. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2015

CHAPTER NO. 439

[HB 629]

AN ACT PROVIDING THAT THE EXECUTIVE OFFICER OF THE BOARD OF LIVESTOCK SERVES AT THE PLEASURE OF THE BOARD OF LIVESTOCK; PROVIDING AN APPROPRIATION; AMENDING SECTION 81-1-102, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-1-102, MCA, is amended to read:

"81-1-102. Duties and powers of department — fees based on costs — notice of rules and orders. (1) The department shall exercise general supervision over and, so far as possible, protect the livestock interests of the state from theft and disease and recommend legislation that in the judgment of the department fosters the livestock industry. The department may compel the attendance of witnesses, employ counsel to assist in the prosecution of violations of laws made for the protection of livestock interests, and assist in the prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

(2) Except as provided in 81-8-901, the department shall by rule establish all fees that it is authorized to charge, commensurate with costs as provided in 37-1-134.

(3) (a) In addition to the requirements of Title 2, chapter 4, the department shall provide notice of adopted, amended, and repealed administrative rules and orders as provided in subsection (3)(b).

(b) Within 10 working days of the effective date of a rule or order, notice of the rule or order must be published on the department's website and provided to each livestock market and brand office. The department shall provide the notification by electronic means to each conservation district, veterinarian's office, and county extension office in the state and to any person or to the office of any professional or trade organization or member of those entities who has made a request to the department to be informed of the adoption, amendment, or repeal of a rule or order by the department.

(c) The notice provided pursuant to this subsection (3) must include a brief summary of the contents of the rule or order and instructions for accessing a complete copy of the rule or order electronically or by mail.

(4) The department shall perform the duties assigned to the department relating to the administration and regulation of alternative livestock ranches.

(5) The board may hire an executive officer. The executive officer serves at the pleasure of the board. The board may remove an executive officer at any time and appoint a new executive officer."

Section 2. Appropriation. There is appropriated $2,000 from the general fund to the board of livestock to pay for research, legal consultation, or any other service to implement the provisions of 81-1-102(5).

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective July 1, 2015.

Approved May 5, 2015

CHAPTER NO. 440

[SB 122]

AN ACT ENSURING THE AVAILABILITY OF MONTANA AMMUNITION; ENCOURAGING THE FORMATION OF BUSINESS IN MONTANA PRIMARILY ENGAGED IN THE MANUFACTURE OF AMMUNITION COMPONENTS; PROVIDING EXEMPTIONS FROM PROPERTY TAXES; CLARIFYING THAT THE FIREARMS LIABILITY LAW APPLIES TO AMMUNITION COMPONENTS MANUFACTURED IN MONTANA; EXPANDING ECONOMIC DEVELOPMENT CRITERIA TO ENCOMPASS THE MANUFACTURE OF AMMUNITION COMPONENTS; AMENDING SECTIONS 15-6-219, 27-1-720, 90-1-118, AND 90-1-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 6] may be cited as the "Montana Ammunition Availability Act".

Section 2. Legislative findings. (1) In recognition that the people of Montana have reserved to themselves the individual right to bear arms in Article II, section 12, of the Montana constitution, the legislature finds that both this right and the firearms that the people possess are at serious risk if the people cannot obtain ammunition for firearms. An adequate source of ammunition is an indivisible and essential part of the right to bear arms. The people of Montana are totally dependent upon a very few manufacturers of smokeless propellant, small arms primers, and cartridge cases located in other states for small arms ammunition used in Montana.

(2) The legislature intends to encourage the manufacture of smokeless propellant, small arms primers, and cartridge cases within the borders of Montana to ensure availability of small arms ammunition for the people of Montana and to fully implement the right to bear arms that the people have reserved to themselves.

Section 3. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Ammunition components" means propellants, primers, and cartridge cases.

(2) "Black powder" means a propellant made from potassium or sodium nitrate, charcoal, and sulfur or a substitute for black powder made differently that is used for conventional small arms or antique or replica arms.

(3) "Cartridge cases" means the casings that contain and hold together the propellant, primer, and bullet, which may be formed from brass, aluminum, steel, plastic, or some combination of those or other materials.

(4) "Primary business" means a manufacturer in which more than one-half of its product produced is and more than one-half of its gross income comes from sales of ammunition components.

(5) "Propellant" includes smokeless propellant and black powder.

(6) "Small arms" means pistols, revolvers, rifles, shotguns, and other similar devices that are portable by one person, the possession and use of which are protected by Article II, section 12, of the Montana constitution.

(7) "Small arms primers" means the priming component for a round of ammunition intended for use in small arms that is usually made of a cup, an anvil, and a shock-sensitive chemical compound and is designed to ignite the propellant in an ammunition cartridge for conventional small arms.

(8) "Smokeless propellant" means a chemical substance designed to expel a projectile from small arms through burning and expansion at a quick but controlled burning rate.

Section 4. Property tax exemption for manufacturing of ammunition components — conditions — real property exemption applies to safety zone. (1) A person or entity in this state engaged in the primary business of the manufacture of ammunition components that meets the conditions in subsections (2) through (4) is exempt from:

(a) property taxes levied for state educational purposes under 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439; and

(b) business equipment tax levied pursuant to 15-6-138.

(2) A person or entity in this state engaged in the primary business of the manufacture of ammunition components is exempt from property taxation as provided under subsection (1) if the person's or entity's business meets the following conditions:

(a) the products of the business are and remain available to commercial and individual consumers in the state;

(b) the business sells its products to in-state commercial and individual consumers for a price no greater than that for out-of-state purchasers, including any products that leave the state regardless of destination or purchaser; and

(c) the business does not enter into any agreement or contract that could actually or potentially command or commit all of its production to out-of-state consumers or interfere with or prohibit sales and provision of products to in-state consumers.

(3) The exemptions allowed under subsection (1) apply only to the property and business activity attributable to the manufacture of ammunition components.

(4) The real property exemption allowed under subsection (1)(a) encompasses any property within 500 yards of a structure used for the manufacture of ammunition components or of any structure used for storage of products manufactured onsite.

Section 5. Tort liability. The provisions of 27-1-720 apply to ammunition components manufactured in Montana.

Section 6. Economic development. The establishment of a primary business is a qualified economic development purpose pursuant to 90-1-117 through 90-1-119 and Title 90, chapter 1, part 2.

Section 7. Section 15-6-219, MCA, is amended to read:

"15-6-219. Personal and other property exemptions. The following categories of property are exempt from taxation:

(1) harness, saddlery, and other tack equipment;

(2) the first $15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(a) construct, repair, and maintain improvements to real property; or

(b) repair and maintain machinery, equipment, appliances, or other personal property;

(3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(4) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

(5) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(a) the acquired cost of the personal property is less than $15,000;

(b) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(c) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly basis;

(6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance; ~~and~~

(7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105*; and*

(8) personal property used in the manufacture of ammunition components as provided in [section 4]."

Section 8. Manufacturer of ammunition components — exemption from statewide property taxes. As provided in [section 4], property used in the manufacture of ammunition components is exempt from the property taxes levied for state educational purposes under 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. The exemption must be administered and applied for as provided in [sections 1 through 6].

Section 9. Section 27-1-720, MCA, is amended to read:

"27-1-720. Liability — defect in design of firearms or ammunition. (1) In a products liability action, no firearm*, ammunition component that was manufactured in Montana,* or ammunition may be considered defective in design on the basis that the benefits of the product do not outweigh the risk of injury posed by its potential to cause serious injury, damage, or death when discharged.

(2) For purposes of this section:

(a) the potential of a firearm or ammunition to cause serious injury, damage, or death when discharged does not make the product defective in design; and

(b) injuries or damages resulting from the discharge of a firearm or ammunition are not proximately caused by its potential to cause serious injury, damage, or death but are proximately caused by the actual discharge of the product.

(3) The provisions of this section do not affect a products liability cause of action based upon the improper selection of design alternatives."

Section 10. Section 90-1-118, MCA, is amended to read:

"90-1-118. Small business eligibility criteria. *(1)* To be eligible for a state matching grant under 90-1-117 through 90-1-119, a business shall provide evidence to the department of commerce that the business meets all of the following criteria:

~~(1)~~*(a)* the business is a for-profit sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation registered with the secretary of state under Title 35 and has its principal place of business in this state;

~~(2)~~*(b)* the business has received a phase I award under a small business innovative research grant or small business technology transfer grant from a participating federal agency in response to a specific federal solicitation;

~~(3)~~*(c)* the business meets all federal eligibility requirements for a small business innovative research grant or a small business technology transfer grant;

~~(4)~~*(d)* the business is not concurrently receiving funding from other state funding programs that duplicate the purpose stated in 90-1-117;

~~(5)~~*(e)* the business certifies that at least 51% of the research described in the business's proposal for phase II funding under a small business innovative research grant or small business technology transfer grant is to be conducted in this state and that the business will remain a Montana-based business for the duration of a phase II project under a small business innovative research grant or small business technology transfer grant; and

~~(6)~~*(f)* the business demonstrates an ability to conduct research for the business's phase II proposal under the small business innovative research grant or small business technology transfer grant.

(2) As provided in [section 6], manufacturing ammunition components is a qualified economic development purpose."

Section 11. Section 90-1-202, MCA, is amended to read:

"90-1-202. Purpose. *(1)* The legislature finds and declares that economic development is a public purpose. The purpose of the big sky economic development program is to assist in economic development for Montana that will:

~~(1)~~*(a)* create good-paying jobs for Montana residents;

~~(2)~~*(b)* promote long-term, stable economic growth in Montana;

~~(3)~~*(c)* encourage local economic development organizations;

~~(4)~~*(d)* create partnerships between the state, local governments, tribal governments, and local economic development organizations that are interested in pursuing these same economic development goals;

~~(5)~~*(e)* retain or expand existing businesses;

~~(6)~~*(f)* provide a better life for future generations through greater economic growth and prosperity in Montana; and

~~(7)~~*(g)* encourage workforce development, including workforce training and job creation, in high-poverty counties by providing targeted assistance.

(2) As provided in [section 6], manufacturing ammunition components is a qualified economic development purpose."

Section 12. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 30, chapter 20, and the provisions of Title 30, chapter 20, apply to [sections 1 through 6].

(2) [Section 8] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [section 8].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Section 16. Termination. [Sections 4, 7, and 8] terminate December 31, 2024.

Approved May 5, 2015

CHAPTER NO. 441

[SB 212]

AN ACT REVISING PENALTY AND INTEREST PROVISIONS FOR CERTAIN TAXPAYERS WHO RECEIVE AN EXTENSION FOR FILING INDIVIDUAL INCOME TAX RETURNS; AND AMENDING SECTION 15-30-2604, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2604, MCA, is amended to read:

"15-30-2604. Time for filing — extensions of time. (1) (a) Except as provided in subsection (1)(b), a return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before April 15 following the close of the calendar year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal revenue service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(2) The return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. An affidavit or affirmation must be attached to the return from the persons making the return verifying that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve the taxpayer of the obligation to make a return required

under this chapter. A taxpayer liable for a tax under this chapter shall pay a minimum tax of $1.

(3) (a) Subject to subsections (3)(b) and (3)(c), a taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

(b) (i) Except as provided in subsection (3)(c), on or before the due date of the return, the taxpayer shall pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.

(ii) The remaining tax, penalty, and interest of the current year's tax liability not paid under subsection ~~(3)(b)(ii)~~ *(3)(b)(i)* must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.

(c) A taxpayer that has a tax ~~liability~~ *due* of $200 or less for the current year*, after accounting for taxes withheld, estimated payments, and refundable credits,* may pay the entire amount of the tax, without penalty or interest under 15-1-216, on or before the due date of the return under subsection (3)(a). If the tax is not paid on or before the due date of the return under subsection (3)(a), penalty and interest must be added to the tax due as provided in 15-1-216 from the original due date of the return.

(4) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(5) Except as provided in subsection (3)(c), the extension of time for filing a return is not an extension of time for the payment of taxes."

Section 2. Coordination instruction. If either House Bill No. 379 or Senate Bill No. 92, or both, and [this act] are passed and approved, then [this act] is void.

Approved May 5, 2015

CHAPTER NO. 442

[SB 272]

AN ACT STRENGTHENING MONTANA'S COMMITMENT IN ITS EDUCATIONAL GOALS TO THE PRESERVATION OF AMERICAN INDIAN CULTURAL INTEGRITY AS STATED IN ARTICLE X, SECTION 1, OF THE MONTANA CONSTITUTION; ENCOURAGING SCHOOL DISTRICTS TO CREATE INDIAN LANGUAGE IMMERSION PROGRAMS; PROVIDING FUNDING; PROVIDING AN APPROPRIATION; INCLUDING AMERICAN INDIAN LANGUAGE AND CULTURE SPECIALISTS IN THE QUALITY EDUCATOR PAYMENT; AMENDING SECTION 20-9-327, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 4] may be cited as the "Cultural Integrity Commitment Act".

Section 2. Legislative findings — purposes. (1) The legislature finds that:

(a) language in the form of spoken, written, or sign language is foundational to cultural integrity;

(b) Montana tribal languages are in a time of crisis through the loss of native speakers, writers, and signers;

(c) achievement gaps persist for Indian students, including higher dropout rates;

(d) Article X, section 1, of the Montana constitution established the educational goals of:

(i) establishing an education system that develops the full educational potential of each person; and

(ii) preserving Indian cultural integrity.

(2) The purpose of [sections 1 through 4] is to promote innovative, culturally relevant, Indian language immersion programs for Indian and non-Indian students with the goal of raising student achievement, strengthening families, and preserving and perpetuating Indian language and culture throughout Indian country and Montana.

Section 3. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Eligible district" means a school district encompassing or adjacent to an Indian reservation or a school district that includes one or more schools with an Indian population of 10% or greater.

(2) "Immersion program" means a program of an eligible district in which:

(a) all participating students receive content area instruction in an Indian language at least 50% of the day;

(b) teachers are fully proficient in the languages they use for instruction; and

(c) the goal of the program is perpetuating cultural integrity and promoting bilingualism and biliteracy.

(3) "Indian language" means any of the languages of the tribes located on the seven Montana reservations and the Little Shell Chippewa tribe.

Section 4. Indian language immersion programs — funding — flexibility. (1) School districts are encouraged to create Indian language immersion programs and in doing so:

(a) collaborate with other school districts, the Montana digital academy, tribal governments, and tribal colleges;

(b) utilize materials produced in the Montana Indian language preservation pilot program pursuant to section 1, Chapter 410, Laws of 2013;

(c) utilize American Indian language and culture specialists as teachers of language and culture; and

(d) look to existing native language schools in Montana and around the world for guidance and best practices.

(2) In acknowledgment of Article X, section 1, of the Montana constitution, the educationally relevant factors for the school funding formula under 20-9-309(3), and the increased costs associated with language immersion programs, a district creating an Indian language immersion program is entitled to the following in addition to the school funding formula in Title 20, chapter 9:

(a) (i) subject to subsections (3) and (4), for every Indian student participating in an Indian language immersion program, an additional American Indian achievement gap payment, as calculated in 20-9-306, multiplied by 2; and

(ii) for every non-Indian student participating in an Indian language immersion program, an additional Indian education for all payment, as calculated in 20-9-306, multiplied by 2; and

(b) for every full-time American Indian language and culture specialist teaching in an Indian language immersion program, a quality educator payment as calculated in 20-9-306.

(3) For a district operating an Indian language immersion program that improves the district's graduation rate for American Indians by 5 percentage points or more from the previous year as measured by the office of public instruction, the multiplier in subsection (2)(a)(i) must be increased to 3.

(4) If the money appropriated for Indian immersion programs is insufficient to provide the amounts in subsections (2) and (3), the office of public instruction shall prorate the payments accordingly.

(5) The board of public education is encouraged to approve proposed variances to standards of accreditation for Indian language immersion programs when the board finds the proposal to be educationally sound and in alignment with the purpose described in [section 2(2)].

(6) The cultural and intellectual property rights from materials developed for an Indian language immersion program belong to the tribe to which the materials relate. Use of the cultural and intellectual property outside of the Indian language immersion program may be negotiated with the tribe.

Section 5. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) state youth correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; ~~or~~

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students*; or*

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to [sections 1 through 4]."

Section 6. Appropriation. There is appropriated from the general fund to the office of public instruction $45,000 for the biennium beginning July 1, 2015, as a one-time-only appropriation for the purposes described in [sections 1 through 4].

Section 7. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [sections 1 through 4].

Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Termination. [This act] terminates June 30, 2019.

Approved May 6, 2015

CHAPTER NO. 443

[SB 387]

AN ACT IMPLEMENTING MAXIMUM PENALTIES FOR WATER QUALITY VIOLATIONS THAT DO NOT HARM OR HAVE THE POTENTIAL TO HARM HUMAN HEALTH, THE ENVIRONMENT, OR THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S ABILITY TO PROTECT HUMAN HEALTH OR THE ENVIRONMENT; AND AMENDING SECTION 75-5-611, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-611, MCA, is amended to read:

"75-5-611. Violation of chapter — administrative actions and penalties — notice and hearing. (1) When the department has reason to believe that a violation of this chapter, a rule adopted under this chapter, or a condition of a permit or authorization required by a rule adopted under this chapter has occurred, it may have a written notice letter served personally or by certified mail on the alleged violator or the violator's agent. The notice letter must state:

(a) the provision of statute, rule, permit, or approval alleged to be violated;

(b) the facts alleged to constitute the violation;

(c) the specific nature of corrective action that the department requires;

(d) as applicable, the amount of the administrative penalty that will be assessed by order under subsection (2) if the corrective action is not taken within the time provided under subsection (1)(e); and

(e) as applicable, the time within which the corrective action is to be taken or the administrative penalty will be assessed. For the purposes of this chapter, service by certified mail is complete on the date of receipt. Except as provided in subsection (2)(a)(ii), an administrative penalty may not be assessed until the provisions of subsection (1) have been complied with.

(2) (a) The department may issue an administrative notice and order in lieu of the notice letter provided under subsection (1) if the department's action:

(i) does not involve assessment of an administrative penalty; or

(ii) seeks an administrative penalty only for an activity that it believes and alleges has violated or is violating 75-5-605.

(b) A notice and order issued under this section must meet all of the requirements specified in subsection (1).

(3) In a notice and order given under subsection (1), the department may require the alleged violator to appear before the board for a public hearing and to answer the charges. The hearing must be held no sooner than 15 days after service of the notice and order, except that the board may set an earlier date for hearing if it is requested to do so by the alleged violator. The board may set a later date for hearing at the request of the alleged violator if the alleged violator shows good cause for delay.

(4) If the department does not require an alleged violator to appear before the board for a public hearing, the alleged violator may request the board to conduct the hearing. The request must be in writing and must be filed with the department no later than 30 days after service of a notice and order under subsection (2). If a request is filed, a hearing must be held within a reasonable time. If a hearing is not requested within 30 days after service upon the alleged violator, the opportunity for a contested case appeal to the board under Title 2, chapter 4, part 6, is waived.

(5) If a contested case hearing is held under this section, it must be public and must be held in the county in which the violation is alleged to have occurred or in Lewis and Clark County.

(6) (a) After a hearing, the board shall make findings and conclusions that explain its decision.

(b) If the board determines that a violation has occurred, it shall also issue an appropriate order for the prevention, abatement, or control of pollution, the assessment of administrative penalties, or both.

(c) If the order requires abatement or control of pollution, the board shall state the date or dates by which a violation must cease and may prescribe timetables for necessary action in preventing, abating, or controlling the pollution.

(d) If the order requires payment of an administrative penalty, the board shall explain how it determined the amount of the administrative penalty.

(e) If the board determines that a violation has not occurred, it shall declare the department's notice void.

(7) The alleged violator may petition the board for a rehearing on the basis of new evidence, which petition the board may grant for good cause shown.

(8) Instead of issuing an order, the board may direct the department to initiate appropriate action for recovery of a penalty under 75-5-631, 75-5-632, 75-5-633, or 75-5-635.

(9) (a) ~~An~~ *Except as provided in subsection (9)(d), an* action initiated under this section may include an administrative penalty of not more than $10,000 for each day of each violation; however, the maximum penalty may not exceed $100,000 for any related series of violations.

(b) Administrative penalties collected under this section must be deposited in the general fund.

(c) In determining the amount of penalty to be assessed to a person, the department and board shall consider the penalty factors in 75-1-1001*,* ~~and~~ rules promulgated under 75-5-201*, and subsection (9)(d)*.

(d) A person who commits a violation that adversely affects the department's administration of this chapter, a rule adopted pursuant to this chapter, or a condition of a permit or authorization issued under this chapter but does not harm or have the potential to harm human health, the environment, or the department's ability to protect human health or the environment may not be assessed a penalty of more than $500 for each day of the violation, not to exceed $5,000 for all days of the same violation.

~~(d)~~*(e)* The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, apply to a hearing conducted under this section."

Approved May 5, 2015

CHAPTER NO. 444

[SB 411]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CLOSE THE MONTANA DEVELOPMENTAL CENTER; CREATING A TEMPORARY TRANSITION PLANNING COMMITTEE TO ASSIST THE DEPARTMENT IN DEVELOPING OF A PLAN FOR CLOSURE; REQUIRING THE DEPARTMENT TO MOVE RESIDENTS INTO COMMUNITY-BASED SERVICES; ESTABLISHING THE DEPARTMENT'S DUTIES; ESTABLISHING LIMITS ON ADMISSIONS TO THE MONTANA DEVELOPMENTAL CENTER; ESTABLISHING LIMITS ON EXPENDITURES; AMENDING SECTIONS 20-7-401, 53-20-102, 53-20-104, 53-20-125, 53-20-129, 53-20-146, 53-20-148, 53-20-161, 53-20-163, 53-20-214, AND 90-7-220, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative intent — direction to department of public health and human services. It is the intent of the legislature to provide services to individuals with developmental disabilities in the community, as established in 53-20-101 and 53-20-301, and to close the Montana developmental center. To accomplish this purpose, the legislature directs the department of public health and human services to:

(1) in conjunction with the transition planning committee established in [section 2], develop and implement a plan to close the Montana developmental center by June 30, 2017;

(2) transfer funds as authorized by 17-7-139, 53-20-214, and federal laws and regulations to develop the services needed to move residents out of the Montana developmental center and into community-based services; and

(3) transition most residents out of the Montana developmental center and into community-based services by December 31, 2016. As part of this transition, the legislature intends for the department of public health and human services to:

(a) actively pursue the timely discharge of Montana developmental center residents into community-based services; and

(b) work with community providers to develop necessary services.

Section 2. Transition planning committee — membership — duties. (1) There is a transition planning committee to make recommendations and help the department of public health and human services plan for carrying out the purposes of [sections 1 through 4].

(2) The committee shall consist of:

(a) two members of the Montana senate, one appointed by the senate president and one appointed by the senate minority leader;

(b) two members of the Montana house, one appointed by the house speaker and one appointed by the house minority leader; and

(c) 11 members appointed by the governor as follows:

(i) the governor's health policy advisor;

(ii) one representative of the department of public health and human services;

(iii) one representative of the office of budget and program planning;

(iv) one representative of community mental health centers;

(v) one provider of community-based services;

(vi) one representative of the state protection and advocacy program for individuals with developmental disabilities as authorized by 42 U.S.C. 15043(a)(2);

(vii) two family members or guardians of individuals who are committed to the Montana developmental center or who were committed within the previous 20 years, representing varying viewpoints;

(viii) one representative of the Montana developmental center workforce;

(ix) one Jefferson County commissioner; and

(x) one member of the Montana council on developmental disabilities provided for in 2-15-1869.

(3) The committee shall:

(a) design and recommend to the department of public health and human services a plan to close the Montana developmental center and transition residents into community-based services;

(b) propose a rate structure for providers of community-based services;

(c) identify potential sources of funding to support the proposed rate structure;

(d) recommend community-based services necessary to allow for the closure of the Montana developmental center;

(e) identify potential options for repurposing of the Montana developmental center campus;

(f) recommend workforce planning and transition options for the Montana developmental center workforce; and

(g) recommend secure facilities necessary to allow for the closure of the Montana developmental center.

(4) The committee shall meet at least quarterly and must be disbanded no later than June 30, 2017.

(5) The committee shall report to the legislative finance committee and the children, families, health, and human services interim committee as requested by those committees.

Section 3. Transition planning — department of public health and human services responsibilities — rulemaking. The department of public health and human services shall:

(1) provide members of the transition planning committee with necessary information and staff support to carry out the committee's duties;

(2) implement a plan for the closure of the Montana developmental center based on recommendations from the transition planning committee; and

(3) designate by rule the criteria that a community-based service must meet to be designated as a residential facility.

Section 4. Transfer fee. The department of public health and human services shall assess a fee of $1,000 on a provider of community-based services who returns an individual to the Montana developmental center within 90 days after accepting the individual for community-based services.

Section 5. Limitation on expenditures. For the biennium beginning July 1, 2015, expenditures for placing seriously developmentally disabled individuals in private, community-based residential facilities pursuant to Title 53, chapter 20, part 1, or in accordance with 46-14-221 or 46-14-312 may not exceed the amount appropriated in House Bill No. 2 for the Montana developmental center.

Section 6. Section 20-7-401, MCA, is amended to read:

"20-7-401. Definitions. In this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Child with a disability" means a child evaluated in accordance with the regulations of the Individuals With Disabilities Education Act as having a disability and who because of the disability needs special education and related services.

(2) "Free appropriate public education" means special education and related services that:

(a) are provided at public expense under public supervision and direction and without charge;

(b) meet the accreditation standards of the board of public education, the special education requirements of the superintendent of public instruction, and the requirements of the Individuals With Disabilities Education Act;

(c) include preschool, elementary school, and high school education in Montana; and

(d) are provided in conformity with an individualized education program that meets the requirements of the Individuals With Disabilities Education Act.

(3) "Related services" means services in accordance with regulations of the Individuals With Disabilities Education Act that are required to assist a child with a disability to benefit from special education.

(4) "Special education" means specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

(5) "State-operated adult health care facility providing special education services to its residents" means the Montana state hospital, ~~the Montana developmental center,~~ the Montana mental health nursing care center, or the Montana chemical dependency treatment center.

(6) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the child."

Section 7. Section 53-20-102, MCA, is amended to read:

"53-20-102. Definitions. As used in this part, the following definitions apply:

(1) (a) "Available" means:

(i) that services of an identified provider or providers have been found to be necessary and appropriate for the habilitation of a specific person by the person's individual treatment planning team;

(ii) that funding for the services has been identified and committed for the person's immediate use; and

(iii) that all providers have offered the necessary services for the person's immediate use.

(b) A service is not available simply because similar services are offered by one or more providers in one or more locations to other individuals or because the person has been placed on a waiting list for services or funding.

(2) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(3) "Case manager" means a person who is responsible for service coordination, planning, and crisis intervention for persons who are eligible for community-based developmental ~~disability~~ *disabilities* services from the department *of public health and human services*.

(4) "Census" means the number of residents occupying beds in a residential facility on a particular date.

~~(4)~~*(5)* "Community treatment plan" means a comprehensive, individualized plan of care that addresses the habilitation needs of and the risks posed by the behaviors of a respondent who is found to be seriously developmentally disabled.

~~(5)~~*(6)* "Community-based facilities" or "community-based services" means those facilities and services that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities in a community setting.

~~(6)~~*(7)* "Court" means a district court of the state of Montana.

~~(7)~~*(8)* "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist, or a person with a master's degree in psychology, who:

(a) has training and experience in psychometric testing and evaluation;

(b) has experience in the field of developmental disabilities; and

(c) is certified, as provided in 53-20-106, by the department of public health and human services.

~~(8)~~*(9)* "Developmental disability" means a disability that:

(a) is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability;

(b) requires treatment similar to that required by intellectually disabled individuals;

(c) originated before the individual attained age 18;

(d) has continued or can be expected to continue indefinitely; and

(e) results in the person having a substantial disability.

~~(9)~~*(10)* "Habilitation" means the process by which a person who has a developmental disability is assisted in acquiring and maintaining those life skills that enable the person to cope more effectively with personal needs and the demands of the environment and in raising the level of the person's physical, mental, and social efficiency. Habilitation includes but is not limited to formal, structured education and treatment.

~~(10)~~*(11)* "Individual treatment planning team" means the interdisciplinary team of persons involved in and responsible for the habilitation of a resident. The resident is a member of the team.

~~(11)~~*(12)* "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

~~(12)~~*(13)* "Qualified intellectual disability professional" means a professional program staff person for the residential facility who the department of public health and human services determines meets the professional requirements necessary for federal certification of the facility.

~~(13)~~*(14)* "Resident" means a person committed to a residential facility.

~~(14)~~*(15)* "Residential facility" or "facility" means*:*

(a) the Montana developmental center*; or*

(b) a private, community-based facility approved by the department of public health and human services as a facility able to meet the needs of individuals committed to a residential facility pursuant to this chapter or placed in a residential facility pursuant to Title 46, chapter 14.

~~(15)~~*(16)* "Residential facility screening team" means a team of persons, appointed as provided in 53-20-133, that is responsible for screening a respondent to determine if the commitment of the respondent to a residential facility or *the* imposition of a community treatment plan is appropriate.

~~(16)~~*(17)* "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously developmentally disabled and for whom the petition requests commitment to a residential facility or imposition of a community treatment plan.

~~(17)~~*(18)* "Responsible person" means a person willing and able to assume responsibility for a person who is seriously developmentally disabled or alleged to be seriously developmentally disabled.

~~(18)~~*(19)* "Seriously developmentally disabled" means a person who:

(a) has a developmental disability;

(b) is impaired in cognitive functioning; and

(c) cannot be safely and effectively habilitated through voluntary use of community-based services because of behaviors that pose an imminent risk of serious harm to self or others."

Section 8. Section 53-20-104, MCA, is amended to read:

"53-20-104. Powers and duties of mental disabilities board of visitors. (1) The board is an independent board of inquiry and review established to ensure that the treatment of all persons committed to ~~a residential facility~~ *the Montana developmental center* is humane and decent and meets the requirements set forth in this part.

(2) The board shall review all plans for experimental research or hazardous treatment procedures involving persons committed to ~~a residential facility~~ *the Montana developmental center* to ensure that the research project is humane and not unduly hazardous and that it complies with the principles of the statement on the use of human subjects for research of the American association

on mental deficiency and with the principles for research involving human subjects required by the United States department of health and human services. An experimental research project involving ~~persons committed to a residential facility~~ *Montana developmental center residents* affected by this part may not ~~be commenced~~ *begin* unless it is approved by the mental disabilities board of visitors.

(3) The board shall investigate all cases of alleged mistreatment of a *Montana developmental center* resident.

(4) The board shall ~~at least annually~~ inspect ~~every residential facility that is providing a course of residential habilitation and treatment to any person pursuant to this part~~ *the Montana developmental center at least annually*. The board shall inspect the physical plant, including residential, recreational, dining, and sanitary facilities. It shall visit all wards and treatment or habilitation areas. The board shall inquire concerning all habilitation programs being implemented by the facility.

(5) The board shall inspect the file of each person committed to ~~a residential facility~~ *the Montana developmental center* pursuant to this part to ensure that a habilitation plan exists and is being implemented. The board shall inquire concerning all use of restraints, isolation, or other extraordinary measures.

(6) The board may assist a *Montana developmental center* resident ~~at a residential facility~~ in resolving a grievance the resident may have concerning the resident's commitment or course of treatment and habilitation in the facility.

(7) If the board believes that ~~a facility~~ *the Montana developmental center* is failing to comply with the provisions of this part in regard to its physical facilities or its treatment of a resident, it shall report its findings at once to the superintendent of the facility and the director of the department of public health and human services. If appropriate, after waiting a reasonable time for a response from the superintendent or the director, the board may notify the parents or guardian of the resident involved, the next of kin, if known, the responsible person appointed by the court for the resident involved, and the district court that has jurisdiction over the facility.

(8) The board shall report annually to the governor concerning the status of the ~~residential facilities and habilitation programs that it has inspected~~ *Montana developmental center and its habilitation programs*."

Section 9. Section 53-20-125, MCA, is amended to read:

"53-20-125. Outcome of screening — recommendation for commitment ~~to residential facility~~ or imposition of community treatment plan — hearing. (1) A court may commit a person to a residential facility or impose a community treatment plan only if the person:

(a) is 18 years of age or older; and

(b) is determined to be seriously developmentally disabled and in need of commitment to a residential facility or imposition of a community treatment plan by the residential facility screening team, as provided in 53-20-133, and by a court, as provided in 53-20-129 or in this section.

(2) After the screening required by 53-20-133, the residential facility screening team shall file its written recommendation and report with the court. The report must include the factual basis for the recommendation and must describe any tests or evaluation devices that have been employed in evaluating the respondent. The residential facility screening team shall provide to the court, the county attorney, the respondent's attorney, and any other party

requesting it the social and placement information that the team relied ~~upon~~ *on* in making its determination.

(3) The residential facility team may recommend commitment to a specific residential facility.

~~(3)~~*(4)* Notice of the determination of the residential facility screening team must be mailed or delivered to:

(a) the respondent;

(b) the respondent's parents, guardian, or next of kin, if known;

(c) the responsible person;

(d) the respondent's advocate, if any;

(e) the county attorney;

(f) the residential facility *to which the residential facility screening team has recommended commitment*;

(g) the attorney for the respondent, if any; and

(h) the attorney for the parents or guardian, if any.

~~(4)~~*(5)* The respondent, the respondent's parents or guardian, the responsible person, the respondent's advocate, if any, or the attorney for any party may request that a hearing be held on the recommendation of the residential facility screening team. The request for a hearing must be made in writing within 15 days of service of the report.

~~(5)~~*(6)* Notice of the hearing must be mailed or delivered to each of the parties listed in subsection ~~(4)~~ *(5)*.

~~(6)~~*(7)* The hearing must be held before the court without jury. The rules of civil procedure apply.

~~(7)~~*(8)* Upon receiving the report of the residential facility screening team and after a hearing, if one is requested, the court shall enter findings of fact and take one of the following actions:

(a) If both the residential facility screening team and the court find that the respondent is seriously developmentally disabled and in need of commitment to a residential facility, the court shall order the respondent committed to a residential facility for an extended course of treatment and habilitation*, subject to the provisions of subsection (12)*.

(b) If both the residential facility screening team and the court find that the respondent is seriously developmentally disabled but either the residential facility screening team or the court finds that a less restrictive community treatment plan has been proposed, the court may impose a community treatment plan that meets the conditions set forth in 53-20-133(4). If the court finds that a community treatment plan proposed by the parties or recommended by the residential facility screening team does not meet the conditions set forth in 53-20-133(4), it may order the respondent committed to a residential facility. The court may not impose a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions of 53-20-133(4)(c) and (4)(d).

(c) If either the residential facility screening team or the court finds that the respondent has a developmental disability but is not seriously developmentally disabled, the court shall dismiss the petition and refer the respondent to the department of public health and human services to be considered for placement in voluntary community-based services according to 53-20-209.

(d) If either the residential facility screening team or the court finds that the respondent does not have a developmental disability or is not in need of

developmental ~~disability~~ *disabilities* services, the court shall dismiss the petition.

~~(8)~~*(9)* (a) If the residential facility screening team recommends commitment to a residential facility or imposition of a community treatment plan and none of the parties notified of the recommendation request a hearing within 15 days of service of the screening team's report, the court may:

(i) issue an order committing the respondent to the residential facility for an extended period of treatment and habilitation;

(ii) issue an order imposing a community treatment plan that the court finds meets the conditions set forth in 53-20-133(4); or

(iii) initiate its own inquiry as to whether an order should be granted.

(b) The court may not impose a community treatment plan unless the residential facility screening team certifies that all services in the proposed plan meet the conditions in 53-20-133(4)(c) and (4)(d).

~~(9)~~*(10)* The court may refuse to authorize commitment of a respondent to a residential facility for an extended period of treatment and habilitation if commitment is not in the best interests of the respondent.

~~(10)~~*(11)* A court order entered in a proceeding under this part must be provided to the residential facility screening team.

(12) (a) A court may not commit a respondent to a residential facility unless the facility has confirmed in writing that admission of the respondent will not cause the census at the residential facility to exceed its licensed capacity.

(b) After December 31, 2016, a court may not commit a respondent to the Montana developmental center."

Section 10. Section 53-20-129, MCA, is amended to read:

"53-20-129. Emergency admission and commitment. (1) ~~A~~ *Subject to the provisions of subsection (3), a* person believed to be seriously developmentally disabled may be admitted to a residential facility or a temporary court-ordered community treatment plan may be imposed on an emergency basis without notice to the person or approval by the residential facility screening team when necessary to protect the person or others from death or serious bodily injury, as defined in 45-2-101.

(2) An emergency admission to a residential facility may be initiated only by a developmental disabilities professional.

(3) *(a)* An emergency admission to a residential facility may not proceed unless the residential facility ~~and the department of public health and human services are given reasonable notice of the need for placement by the developmental disabilities professional responsible for emergency admission~~ *has confirmed in writing that admission of the person will not cause the census at the facility to exceed its licensed capacity and that the facility can accommodate the emergency needs of the person*.

(b) After December 31, 2016, an emergency admission may not be made to the Montana developmental center.

(4) A petition for emergency commitment must be filed on the next judicial day after an emergency admission to a residential facility by the county attorney of the county where the respondent resides.

(5) A petition for imposition of an emergency community treatment plan may be filed by the county attorney of the county where the respondent resides and must include or have attached the written report of a case manager. Any

temporary community treatment plan must meet the conditions set forth in 53-20-133(4).

(6) The residential facility screening team shall report back to the court on the seventh judicial day following the filing of the petition for emergency commitment or imposition of a temporary community treatment plan.

(7) Once the report of the residential facility screening team is received by the court, continued placement in the residential facility or continued imposition of the temporary community treatment plan may not continue without an order of the court for emergency commitment or continued imposition of the community treatment plan.

(8) A court may order an emergency commitment or continue a temporary community treatment plan only when the residential facility screening team has recommended and the court has determined that the emergency commitment or continued imposition of a community treatment plan is necessary to protect the respondent or others from death or serious bodily injury, as defined in 45-2-101. Any temporary community treatment plan must meet the conditions set forth in 53-20-133(4).

(9) An order for emergency commitment or continued imposition of a temporary community treatment plan may be entered without a hearing before the court if the court finds that the record supports the order.

(10) An emergency commitment to a residential facility or imposition of a temporary community treatment plan may not continue for longer than 30 days after placement in the residential facility or imposition of a temporary community treatment plan unless a petition for an extended commitment to the residential facility or for imposition of a community treatment plan as provided in 53-20-121 has been filed."

Section 11. Section 53-20-146, MCA, is amended to read:

"53-20-146. Right not to be subjected to certain treatment procedures. (1) Residents of a residential facility have a right not to be subjected to unusual or hazardous treatment procedures without the express and informed consent of the resident, if the resident is able to give consent, and of the resident's parents or guardian or the responsible person appointed by the court after opportunities for consultation with independent specialists and legal counsel. Proposed procedures must first have been reviewed and approved by the mental disabilities board of visitors before consent is sought.

(2) Physical restraint may be employed only when absolutely necessary to protect the resident from injury or to prevent injury to others. Mechanical supports used to achieve proper body position and balance that are ordered by a physician are not considered a physical restraint. Restraint may not be employed as punishment, for the convenience of staff, or as a substitute for a habilitation program. Restraint may be applied only if alternative techniques have failed and only if the restraint imposes the least possible restriction consistent with its purpose. Use of restraints may be authorized by a physician, a developmental disabilities professional, or a qualified intellectual disability professional. Orders for restraints must be in writing and may not be in force for longer than 12 hours. Whenever physical restraint is ordered, suitable provision must be made for the comfort and physical needs of the resident restrained.

(3) Seclusion, defined as the placement of a resident alone in a locked room for nontherapeutic purposes, may not be employed. Legitimate "time out" procedures may be used under close and direct professional supervision as a technique in behavior-shaping programs.

(4) Behavior modification programs involving the use of noxious or aversive stimuli must be reviewed and approved by the mental disabilities board of visitors and may be conducted only with the express and informed consent of the affected resident, if the resident is able to give consent, and of the resident's parents or guardian or the responsible person appointed by the court after opportunities for consultation with independent specialists and with legal counsel. These behavior modification programs may be conducted only under the supervision of and in the presence of a qualified intellectual disability professional who has had proper training.

(5) A resident may not be subjected to a behavior modification program that attempts to extinguish socially appropriate behavior or to develop new behavior patterns when the behavior modifications serve only institutional convenience.

(6) Electric shock devices are considered a research technique for the purpose of this part. Electric shock devices may be used only in extraordinary circumstances to prevent self-mutilation leading to repeated and possibly permanent physical damage to the resident and only after alternative techniques have failed. The use of electric shock devices is subject to the conditions prescribed by this part for experimental research generally and may be used only under the direct and specific order of a physician and ~~the superintendent of the~~ *an individual designated by the department of public health and human services to order the treatment for an individual placed in a* residential facility."

Section 12. Section 53-20-148, MCA, is amended to read:

"53-20-148. Right to habilitation. (1) Persons admitted to residential facilities have a right to habilitation, including medical treatment, education, and care suited to their needs, regardless of age, degree of intellectual disability, or disabling condition. Each resident has a right to a habilitation program that will maximize the resident's human abilities and enhance the resident's ability to cope with the environment. Every residential facility shall recognize that each resident, regardless of ability or status, is entitled to develop and realize the resident's fullest potential. The facility shall implement the principle of normalization so that each resident may live as normally as possible.

(2) Residents have a right to the least restrictive conditions necessary to achieve the purposes of habilitation. To this end, the facility shall make every attempt to move residents from:

(a) more to less structured living;

(b) larger to smaller facilities;

(c) larger to smaller living units;

(d) group to individual residences;

(e) segregated from the community to integrated into the community living; *and*

(f) dependent to independent living.

(3) Within 30 days of admission to a residential facility, each resident must have an evaluation by appropriate specialists for programming purposes.

(4) Each resident must have an individualized habilitation plan formulated by an individual treatment planning team. This plan must be implemented as soon as possible, but no later than 30 days after the resident's admission to the facility. An interim program of habilitation, based on the preadmission evaluation conducted pursuant to this part, must commence promptly upon the resident's admission. Each individualized habilitation plan must contain:

(a) a statement of the nature of the specific limitations and the needs of the resident;

(b) a description of intermediate and long-range habilitation goals, with a projected timetable for their attainment;

(c) a statement of and an explanation for the plan of habilitation for achieving these intermediate and long-range goals;

(d) a statement of the least restrictive setting for habilitation necessary to achieve the habilitation goals of the resident;

(e) a specification of the professionals and other staff members who are responsible for the particular resident's attaining these habilitation goals; *and*

(f) criteria for release to less restrictive settings for habilitation, based on the resident's needs, including criteria for discharge and a projected date for discharge.

(5) As part of the habilitation plan, each resident must have an individualized postinstitutionalization plan that includes an identification of services needed to make a satisfactory community placement possible. This plan must be developed by the individual treatment planning team that shall begin preparation of the plan upon the resident's admission to the facility and shall complete the plan as soon as practicable. The parents or guardian or next of kin of the resident, the responsible person appointed by the court, if any, and the resident, if able to give informed consent, must be consulted in the development of the plan and must be informed of the content of the plan.

(6) In the interests of continuity of care, one qualified intellectual disability professional shall whenever possible be responsible for supervising the implementation of the habilitation plan, integrating the various aspects of the habilitation program, and recording the resident's progress as measured by objective indicators. The qualified intellectual disability professional is also responsible for ensuring that the resident is released when appropriate to a less restrictive habilitation setting.

(7) The habilitation plan must be reviewed monthly by the qualified intellectual disability professional responsible for supervising the implementation of the plan and must be modified if necessary. In addition, 6 months after admission and at least annually thereafter, each resident must receive a comprehensive psychological, social, habilitative, and medical diagnosis and evaluation and the resident's habilitation plan must be reviewed and revised accordingly by the individual treatment planning team. A habilitation plan must be reviewed monthly.

(8) Each resident placed in the community must receive transitional habilitation assistance.

(9) ~~The superintendent of the residential facility, or the superintendent's designee,~~ *A residential facility* shall report in writing to the parents or guardian of the resident or the responsible person at least every 6 months on the resident's habilitation and medical condition. The report must also state any appropriate habilitation program that has not been afforded to the resident because of inadequate habilitation resources.

(10) Each resident, the parents or guardian of each resident, and the responsible person appointed by the court must promptly upon the resident's admission receive a written copy of and be orally informed of all the above standards for adequate habilitation, the rights accorded by 53-20-142, and other information concerning the care and habilitation of the resident that may be

available to assist them in understanding the situation of the resident and the rights of the resident in the facility."

Section 13. Section 53-20-161, MCA, is amended to read:

"53-20-161. Maintenance of records. (1) Complete records for each resident must be maintained and must be readily available to persons who are directly involved with the particular resident and to the mental disabilities board of visitors. All information contained in a resident's records must be considered privileged and confidential. The parents or guardian, the responsible person appointed by the court, and any person properly authorized in writing by the resident, if the resident is capable of giving informed consent, or by the resident's parents or guardian or the responsible person must be permitted access to the resident's records. Information may not be released from the records of a resident or former resident of the residential facility unless the release of the information has been properly authorized in writing by:

(a) the court;

(b) the resident or former resident if the resident or former resident is over the age of majority and is capable of giving informed consent;

(c) the parents or guardian in charge of a resident under the age of 12;

(d) the parents or guardian in charge of a resident over the age of 12 but under the age of majority and the resident if the resident is capable of giving informed consent;

(e) the guardian of a resident over the age of majority who is incapable of giving informed consent;

~~(f) the superintendent of the residential facility or the superintendent's designee as custodian of a resident over the age of majority who is incapable of giving informed consent and for whom no legal guardian has been appointed;~~

~~(g) the superintendent of the residential facility or the superintendent's designee as custodian of a resident under the age of majority for whom there is no parent or legal guardian; or~~

~~(h) the superintendent of the residential facility or the superintendent's designee as custodian of a resident of that facility whenever release is required by federal or state law or department of public health and human services rules~~

(f) a residential facility, through an individual designated by the department of public health and human services by rule, when the facility is the custodian of a resident:

(i) over the age of majority who is incapable of giving informed consent and for whom no legal guardian has been appointed;

(ii) under the age of majority for whom there is no parent or legal guardian; or

(iii) of the facility whenever release is required by federal or state law or department rules.

(2) Information may not be released by a ~~superintendent or the superintendent's designee as set forth in~~ *residential facility under* subsection (1)(f)~~, (1)(g), or (1)(h)~~ less than 15 days after sending notice of the proposed release of information to the resident, the resident's parents or guardian, the attorney who most recently represented the resident, if any, the responsible person appointed by the court, if any, the resident's advocate, if any, and the court that ordered the admission. If any of the parties ~~so~~ notified *under this subsection* objects to the release of information, ~~they~~ *the party* may petition the court for a hearing to determine whether the release of information should be allowed. Information may not be released pursuant to subsection (1)(f)~~, (1)(g), or~~

~~(1)(h)~~ unless it is released to further ~~some~~ *a* legitimate need of the resident or to accomplish a legitimate purpose of the facility that is not inconsistent with the needs and rights of the resident. Information may not be released pursuant to subsection (1)(f)~~, (1)(g), or (1)(h)~~ except in accordance with written policies consistent with the requirements of this part adopted by the facility. Persons receiving notice of a proposed release of information must also receive a copy of the written policy of the facility governing release of information.

(3) These records must include:

(a) identification data, including the resident's legal status;

(b) the resident's history, including but not limited to:

(i) family data, educational background, and employment record; *and*

(ii) prior medical history, both physical and mental, including prior institutionalization;

(c) the resident's grievances, if any;

(d) an inventory of the resident's life skills, including mode of communication;

(e) a record of each physical examination that describes the results of the examination;

(f) a copy of the individual habilitation plan and any modifications to the plan and an appropriate summary to guide and assist the resident care workers in implementing the resident's habilitation plan;

(g) the findings made in monthly reviews of the habilitation plan, including an analysis of the successes and failures of the habilitation program and whatever modifications are necessary;

(h) a copy of the postinstitutionalization plan that includes a statement of services needed in the community and any modifications to the postinstitutionalization plan and a summary of the steps that have been taken to implement that plan;

(i) a medication history and status;

(j) a summary of each significant contact by a qualified intellectual disability professional with a resident;

(k) a summary of the resident's response to the resident's habilitation plan, prepared by a qualified intellectual disability professional involved in the resident's habilitation and recorded at least monthly. Wherever possible, the response must be scientifically documented.

(l) a monthly summary of the extent and nature of the resident's work activities and the effect of the activity ~~upon~~ *on* the resident's progress in the habilitation plan;

(m) a signed order by a qualified intellectual disability professional or physician for any physical restraints;

(n) a description of any extraordinary incident or accident in the facility involving the resident, to be entered by a staff member noting personal knowledge of the incident or accident or other source of information, including any reports of investigations of the resident's mistreatment;

(o) a summary of family visits and contacts;

(p) a summary of attendance and leaves from the facility; *and*

(q) a record of any seizures; illnesses; injuries; treatments of seizures, illnesses, and injuries; and immunizations."

Section 14. Section 53-20-163, MCA, is amended to read:

"53-20-163. Abuse of residents prohibited. (1) Any form of mistreatment, neglect, or abuse of a resident is prohibited.

(2) A residential facility shall publish in ~~each cottage and building~~ *the facility* and circulate to staff a written policy statement that defines the facility's requirements for reporting and investigating allegations of mistreatment, neglect, or abuse and injuries from an unknown source.

(3) Each allegation of mistreatment, neglect, or abuse and each injury from an unknown source must be reported immediately to*:*

(a) the ~~superintendent of~~ *department of public health and human services;*

(b) a representative of the facility *as designated by the department of public health and human services by rule;* and

(c) ~~to~~ *if the alleged mistreatment, neglect, or abuse or the injury occurred at the Montana developmental center,* the department of justice~~, and the~~.

(4) The residential facility shall maintain a written record that:

(a) each allegation and each injury from an unknown source has been reported ~~to the department of justice~~ *as required by this section*;

(b) each allegation and each injury from an unknown source has been thoroughly investigated and findings stated;

(c) the investigation into the allegation or injury from an unknown source was initiated within 24 hours of the report of the incident; and

(d) the results were reported to the director of the department of public health and human services.

~~(4)~~*(5)* The ~~residential facility~~ *director of the department of public health and human services* shall report the details of each reported allegation, including providing the written record created pursuant to this section, to the mental disabilities board of visitors and the state protection and advocacy program for individuals with developmental disabilities, as authorized by 42 U.S.C. 15043(a)(2), within 5 business days of the incident. The *director and the* residential facility may not redact any information that is provided pursuant to this subsection. The mental disabilities board of visitors and the state protection and advocacy program shall maintain the confidentiality of any report received under this section to the same extent that the reports are confidential under state and federal laws applicable to the residential facility.

~~(5)~~*(6)* Upon receiving a report of an allegation of mistreatment, neglect, or abuse or of an injury from an unknown source *at the Montana developmental center*, the department of justice shall conduct a thorough investigation of each allegation or each injury from an unknown source and provide a written report of its investigation and findings to the superintendent of the residential facility within 5 business days of the incident.

~~(6)~~*(7)* The ~~residential facility~~ *Montana developmental center* shall provide the department of justice with access to records and other information necessary to conduct investigations under this section. The department of justice shall maintain the confidentiality of any information received in the course of conducting investigations under this section to the same extent that the information is confidential under state and federal laws applicable to the residential facility.

~~(7)~~*(8)* If a state licensing authority or federal medicaid certification authority issues a statement of deficiency indicating that the residential facility has failed to meet licensing or certification standards due to the thoroughness or timeliness of an investigation conducted under this section, the department of

justice shall participate in preparing a plan of correction to restore the residential facility's compliance with licensing or certification standards.

~~(8)~~*(9)* If in the course of conducting an investigation under this section the department of justice develops reasonable cause to believe that a criminal offense has occurred, the department of justice shall refer the matter to the appropriate local law enforcement agency."

Section 15. Section 53-20-214, MCA, is amended to read:

"53-20-214. Certain transfers of funds authorized. Funds appropriated to the Montana state hospital or Montana developmental center may be ~~transferred by budget amendment as provided in appropriation acts and with the approval of the governor to the department of public health and human services~~ *used* for comprehensive developmental disability systems if*:*

(1) residents of any of those institutions are transferred to a comprehensive developmental disability system resulting in less expenditures at that institution than allowed by legislative appropriation*; and*

(2) a transfer of appropriations between programs is:

(a) made as provided in 17-7-139; and

(b) approved by the governor."

Section 16. Section 90-7-220, MCA, is amended to read:

"90-7-220. Montana developmental center loan. (1) The department of public health and human services may enter into a loan agreement with the Montana facility finance authority for the purpose of financing the costs of acquiring, constructing, and equipping facilities for persons with developmental disabilities at the Montana developmental center in Boulder, including the establishment of reserves and the payment of costs of the financing. The maximum principal amount of the loan may not exceed $10.5 million for construction and related costs, plus the necessary amounts for capitalized interest, debt service reserves, and financing costs, and the loan must be payable over a term not to exceed 30 years and must bear interest and contain other terms and provisions with respect to prepayment or otherwise as are not inconsistent with this section and as the department approves. Investment earnings on the authority's bonds or on funds held for the bonds must be used to pay the principal and interest on the loan as provided in the loan agreement.

(2) The loan may be secured by a mortgage on the Montana developmental center facility, including the land on which it is located. The loan constitutes a special limited obligation of the department, and the principal and interest payments required by that agreement are payable solely from the facility revenue obtained by the department from the ownership and operation of and the provision of services at the Montana developmental center, including payments or reimbursements from private users, insurers, and the federal government. All facility revenue obtained from services provided by the Montana developmental center must be deposited in a special revenue fund and must be applied to the payment of the principal and interest payments as due under the loan agreement. Whenever facility revenue exceeds the amount and terms specified and required to repay the loan and maintain required reserves, the excess must be ~~deposited to the general fund~~ *used to pay the remainder of the principal and interest of the loan*. As long as the loan remains outstanding and the department provides services for persons with developmental disabilities, the department shall use the Montana developmental center for those purposes or for other purposes as permitted by the loan agreement and state law, except

when foreclosure occurs under the agreement or the mortgage. Notwithstanding 77-2-302(1) and upon foreclosure of a mortgage given to secure the loan agreement, there must be paid to the board of land commissioners as a first and prior claim against the mortgaged land an amount equal to the full market value of the land as determined by the board prior to the execution of the mortgage and after appraisal by a qualified land appraiser. The loan agreement may contain other provisions or agreements that the department determines are necessary and that are not inconsistent with the provisions of this chapter.

(3) The obligations of the department under the agreement are special limited obligations payable solely from the facility revenue and do not constitute a debt of the state or obligate the state to appropriate or apply any funds or revenue of the state, except the facility revenue as provided in this section."

Section 17. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 53, chapter 20, part 1, and the provisions of Title 53, chapter 20, part 1, apply to [sections 1 through 4].

Section 18. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 contains an appropriation for the Disability Services Division of the Department of Public Health and Human Services, then House Bill No. 2 must be amended to include the following language: "The appropriation for the Disability Services Division may be used to fund additional community-based facilities and services to accommodate individuals who are at or would otherwise be placed at the Montana developmental center."

Section 19. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 6] is effective on the date that the Montana developmental center closes. The director of the department of public health and human services shall certify the closure of the Montana developmental center to the governor, and the governor shall transmit a copy of the certification to the code commissioner.

Approved May 6, 2015

CHAPTER NO. 445

[SB 261]

AN ACT CREATING THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; ESTABLISHING THE MONTANA SAGE GROUSE OVERSIGHT TEAM; PROVIDING DUTIES AND RULEMAKING AUTHORITY; PROVIDING FINDINGS AND DEFINITIONS; ESTABLISHING THE SAGE GROUSE STEWARDSHIP ACCOUNT; PROVIDING GRANT CRITERIA; ALLOWING FOR COMPENSATORY MITIGATION; CONDITIONING THE FUNDING OF LEASES OR CONSERVATION EASEMENTS; PROVIDING FOR MANAGEMENT OF CONVEYED LANDS; REQUIRING REPORTING; PROVIDING A CONTINGENT FUND TRANSFER AND APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana sage grouse oversight team — composition. (1) There is a Montana sage grouse oversight team. The oversight team is attached to the governor's office for administrative purposes only, as prescribed in 2-15-121.

(2) The oversight team consists of:

(a) the directors of the departments of:

(i) environmental quality;

(ii) fish, wildlife, and parks;

(iii) natural resources and conservation; and

(iv) transportation;

(b) the administrator of the division of oil and gas conservation within the department of natural resources and conservation;

(c) one member of the rangeland resources committee established in 2-15-3305;

(d) one member of the senate appointed by the president of the senate;

(e) one member of the house of representatives appointed by the speaker of the house; and

(f) a designated representative of the governor. The governor's designated representative is the presiding officer of the oversight team.

(3) The oversight team shall meet at least quarterly to fulfill the requirements of [sections 2 through 13]. Each meeting must be recorded electronically.

(4) Unless otherwise provided by law, each member is entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while performing oversight team duties.

Section 2. Short title. This part may be cited as the "Montana Greater Sage-grouse Stewardship Act".

Section 3. Legislative findings and purpose. (1) The legislature finds that it is in the best interests of Montana's economy, the economic stability of school trust lands, and sage grouse conservation and management to enact the Montana Greater Sage-grouse Stewardship Act.

(2) The purpose of this act is to provide competitive grant funding and establish ongoing free-market mechanisms for voluntary, incentive-based conservation measures that emphasize maintaining, enhancing, restoring, expanding, and benefiting sage grouse habitat and populations on private lands, and public lands as needed, that lie within core areas, general habitat, or connectivity areas.

Section 4. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Connectivity area" means an area that provides an important linkage among populations of sage grouse, particularly between core areas or priority populations in adjacent states and across international borders.

(2) "Conservation bank" means a site or group of sites established through an agreement with the United States fish and wildlife service to provide ecological functions and services expressed as credits that are conserved and managed for sage grouse habitat and populations and used to offset debits occurring elsewhere.

(3) "Core area" means an area that has the highest conservation value for sage grouse and has the greatest number of displaying male sage grouse and associated sage grouse habitat.

(4) "Credit" means a defined unit of trade representing the accrual or attainment of resource functions or value at a proposed project site.

(5) "Debit" means a defined unit of trade representing the loss of resource functions or value at an impact or project site. The unit of measure is the same as that for a credit within a specific mitigation system.

(6) "Department" means the department of natural resources and conservation.

(7) "General habitat" means an area providing habitat for sage grouse but not identified as a core area or connectivity area.

(8) "Habitat exchange" means a market-based system that facilitates the exchange of credits and debits between interested parties.

(9) "Habitat quantification tool" means the scientific method used to evaluate vegetation and environmental conditions related to the quality and quantity of sage grouse habitat and to quantify and calculate the value of credits and debits.

(10) "Oversight team" means the Montana sage grouse oversight team established in [section 1].

(11) "Project developer" means an entity proposing an action that will result in a debit.

(12) "Sage grouse" means the greater sage-grouse (Centrocercus urophasianus).

Section 5. Montana sage grouse oversight team — rulemaking. The oversight team shall adopt rules to administer the provisions of this part, including:

(1) eligibility and evaluation criteria for grants distributed pursuant to [section 8] for projects that maintain, enhance, restore, expand, or benefit sage grouse habitat or populations, including but not limited to requirements for matching funds and in-kind contributions and consideration of the socioeconomic impacts of a proposed project on the local community. The evaluation criteria must give greater priority to proposed projects that:

(a) involve partnerships between public and private entities;

(b) provide matching funds;

(c) use the habitat quantification tool adopted pursuant to subsection (2); and

(d) maximize the amount of credits generated per dollars of funds awarded;

(2) the designation of a habitat quantification tool, subject to the approval of the United States fish and wildlife service;

(3) subject to the provisions of [section 6(2)], a method to track and maintain the number of credits attributable to projects funded pursuant to this part that are available to a project developer to purchase for compensatory mitigation to offset debits under [section 9];

(4) methods of compensatory mitigation available under [section 9];

(5) review and monitoring of projects funded pursuant to this part;

(6) criteria for the acceptance or rejection of grants, gifts, transfers, bequests, and donations, including interests in real or personal property; and

(7) guidance on management options for any real property conveyed to the state under this part, including its sale or lease.

Section 6. Montana sage grouse oversight team — duties — powers. (1) The oversight team shall:

(a) cooperate with organizations to maintain, enhance, restore, expand, and benefit sage grouse habitat and populations;

(b) identify and map core areas, connectivity areas, and general habitat, subject to the approval of the governor;

(c) evaluate grant applications. As part of its evaluation, the oversight team shall solicit and consider the views of interested and affected persons and entities, including local, state, tribal, and federal governmental agencies, and boards, commissions, and other political subdivisions of the state;

(d) subject to the provisions of [section 7], select grant applications to receive funding from the sage grouse stewardship account. The oversight team has the discretion to determine the amount of each grant in accordance with the provisions of this part and may attach conditions of use to the grant.

(e) review and decide whether to approve proposals for the transfer to or acceptance by the state of a fee simple interest in real property. The oversight team shall recommend an approved proposal to the board of land commissioners for a final determination. Prior to making a recommendation, the oversight team shall publish a notice in a newspaper of general circulation in the county in which the real property is located and provide an opportunity for public comment.

(f) review and decide whether to accept offers, from any source, in the form of grants, gifts, transfers, bequests, or donations of money, personal property, or an interest in real property other than a fee simple interest; and

(g) review compensatory mitigation plans proposed under [section 9]. If the plan includes a financial contribution to the sage grouse stewardship account established in [section 7], the oversight team shall, using the habitat quantification tool, determine how to secure enough credits with the financial contribution to offset the debits of the project.

(2) If a habitat exchange is authorized in Montana by the United States fish and wildlife service, the oversight team may transfer credits it is tracking pursuant to [section 5(3)] to the habitat exchange, provided that:

(a) the habitat exchange uses the habitat quantification tool to quantify and calculate the value of credits available for purchase; and

(b) if the United States fish and wildlife service revokes authorization of the habitat exchange, the balance of the credits held by the exchange that were transferred to it by the oversight team are transferred back to the oversight team or to another habitat exchange authorized by the United States fish and wildlife service.

(3) The oversight team shall retroactively calculate and make available credits for leases and conservation easements purchased with funds disbursed pursuant to this part after [the effective date of this act] but prior to the adoption of rules under [section 5].

(4) The oversight team shall seek a depredation order from the United States fish and wildlife service under the Migratory Bird Treaty Act of 1918, as necessary, to control common raven (Corvus corax) or black-billed magpie (Pica hudsonia) to reduce depredation on sage grouse populations and their nests.

Section 7. Sage grouse stewardship account. (1) There is a sage grouse stewardship account in the state special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in the account must be used pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people.

(2) The following funds must be deposited in the account:

(a) money received by the department in the form of grants, gifts, transfers, bequests, payments for credits or financial contributions made pursuant to [section 9], and donations, including donations limited in their purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account; and

(b) any interest or income earned on the account.

(3) Subject to subsections (4) and (5), the department shall make disbursements from the account to projects approved by the oversight team to receive grants.

(4) The majority of the funds in the account may not be disbursed before the habitat quantification tool has been adopted. The habitat quantification tool must be applied to any project funded after the habitat quantification tool has been adopted. The majority of the account funds must be awarded to projects that generate credits that are available for compensatory mitigation under [section 9]. When selecting projects to receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per dollars of funds awarded.

(5) Money deposited in the account may not be used:

(a) for fee simple acquisition of private land;

(b) to purchase water rights;

(c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms; or

(d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq.

(6) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

Section 8. Grants — eligibility. (1) Subject to the provisions of [section 10], to be eligible to receive funds pursuant to this part, a proposed project must maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people through voluntary, incentive-based efforts, including:

(a) reduction of conifer encroachment;

(b) reduction of the spread of invasive weeds that harm sagebrush health or sage grouse habitat;

(c) maintenance, restoration, or improvement of sagebrush health or quality;

(d) purchase or acquisition of leases, term conservation easements, or permanent conservation easements that conserve or maintain sage grouse habitat, protect grazing lands, or conserve sage grouse populations;

(e) incentives to reduce the conversion of grazing land to cropland;

(f) restoration of cropland to grazing land;

(g) modification of fire management to conserve sage grouse habitat or populations;

(h) demarcation of fences to reduce sage grouse collisions;

(i) reduction of unnatural perching platforms for raptors;

(j) reduction of unnatural safe havens for predators;

(k) sage grouse habitat enhancement that provides project developers the ability to use improved habitat for compensatory mitigation under [section 9];

(l) establishment of a habitat exchange to develop and market credits consistent with the purposes of this part. The habitat exchange must be authorized by the United States fish and wildlife service and must use the habitat quantification tool to quantify and calculate the value of credits and debits. Funds may be allocated to a habitat exchange:

(i) if the funds are used:

(A) to create and market credits in a manner consistent with the habitat quantification tool;

(B) for operational purposes, including monitoring the effectiveness of projects; or

(C) for costs associated with establishing the habitat exchange; and

(ii) the habitat exchange reimburses the state for its proportionate share of proceeds generated from the sale of credits created with funds distributed pursuant to this part. Any proceeds received by the state pursuant to this subsection (1)(l)(ii) must be deposited in the sage grouse stewardship account established in [section 7] and must be used only to acquire additional credits or for operational purposes, including monitoring the long-term effectiveness of compensatory mitigation projects.

(m) other project proposals that the oversight team determines are consistent with the purposes of this part.

(2) Projects proposed by grant applicants may involve land owned by multiple landowners, including state and federal land, provided that the majority of the involved acres are privately held and that the proposed project benefits sage grouse across all of the land included in the project.

(3) Grants must be awarded only to organizations and agencies that hold and maintain conservation easements or leases or that are directly involved in sage grouse habitat mitigation and enhancement activities approved by the oversight team.

(4) Grants may not be used to supplement or replace the operating budget of an agency or organization except for budget items that directly relate to the purposes of the grant.

(5) If a grant is awarded to a proposed project that uses matching funds from a source that prohibits the generation of credits for compensatory mitigation, the oversight team, when possible, shall allocate the credits generated by the proposed project on a pro rata basis and make available for compensatory mitigation under [section 9] only those credits attributable to funds awarded pursuant to this section and any unrestricted matching funds.

Section 9. Compensatory mitigation — findings. (1) The legislature finds that allowing a project developer to provide compensatory mitigation for the debits of a project is consistent with the purpose of incentivizing voluntary conservation measures for sage grouse habitat and populations. The project developer may provide compensatory mitigation by:

(a) using the habitat quantification tool to calculate the debits attributable to the project; and

(b) under a mitigation plan approved by the oversight team, offsetting those debits in whole or in part by:

(i) purchasing an equal number of credits from a habitat exchange authorized by the United States fish and wildlife service or from the available credits tracked by the oversight team pursuant to [section 5]. Payments received

for credits tracked by the oversight team must be deposited in the sage grouse stewardship account established in [section 7].

(ii) if sufficient conservation credits are unavailable for purchase, making a financial contribution to the sage grouse stewardship account established in [section 7] that is equal to the average cost of the credits that would otherwise be required;

(iii) providing funds to establish a habitat exchange or finance a conservation project for the purpose of creating credits to offset debits. However, the funds may not be used to subsidize mitigation by or decrease the mitigation obligations of any party involved in the project.

(iv) undertaking other mitigation options identified and approved by the oversight team, including but not limited to sage grouse habitat enhancement, participation in a conservation bank, or funding stand-alone mitigation actions.

(2) All mitigation undertaken pursuant to this section must be consistent with the United States fish and wildlife service's greater sage-grouse range-wide mitigation framework, state law, and any rules adopted pursuant to this part.

(3) A mitigation action taken under this section must be conducted within general habitat, core areas, or connectivity areas.

Section 10. Leases and conservation easements. A lease or conservation easement selected to receive funds pursuant to this part binds the parties involved to an agreement in which the state is a third-party beneficiary to the lease or easement with the contingent right to enforce the terms of the lease or easement if the grantee fails to do so. The agreement must provide that the lease or easement may not be transferred for value, sold, or extinguished without consent of the department. The state may take legal action to enforce the terms of the lease or easement or to recover from the proceeds of the transfer for value, sale, or extinguishment the state's pro rata share of the proceeds based on the funds the state provided pursuant to this part for the creation of the lease or easement.

Section 11. Real property. Real property conveyed by fee simple title to the state under this part must be administered by the department pursuant to Title 77.

Section 12. Application to mineral estates. No provision of this part may be construed to alter Montana law regarding the primacy of the mineral estate, to limit access to the mineral estate, or to limit development of the mineral estate.

Section 13. Reporting. The oversight team shall report to the governor regularly and provide an annual report to the governor, the environmental quality council, the board of land commissioners, and the county commissions in the counties where projects were funded pursuant to this part. The annual report must include information on activities undertaken pursuant to this part, including but not limited to:

(1) any appropriation, grant, gift, transfer, bequest, or donation received, including interest in real property;

(2) each grant awarded and the details of each grant's status and results; and

(3) any compensatory mitigation activities.

Section 14. Transfer of funds. Any funds appropriated to the department of natural resources and conservation for the sage grouse conservation fund in the general appropriations act must be transferred to the sage grouse

stewardship account established in [section 7] and used in accordance with [this act].

Section 15. Reversion of funds. If the United States fish and wildlife service lists the greater sage-grouse (Centrocercus urophasianus) as endangered under the Endangered Species Act, 16 U.S.C. 1531, et seq., any unencumbered portion of an appropriation to the department of natural resources and conservation for the sage grouse conservation fund in the general appropriations act that was transferred pursuant to [section 14] must revert to the general fund.

Section 16. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 17. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the provisions of Title 2, chapter 15, part 2, apply to [section 1].

(2) [Sections 2 through 13] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 2 through 13].

Section 18. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved, then:

(1) [sections 14 and 15 of this act] are void;

(2) the general fund appropriation to the department of natural resources and conservation for the sage grouse conservation fund contained in House Bill No. 2 is void;

(3) for the biennium beginning July 1, 2015, $10 million is transferred from the general fund to the sage grouse stewardship account established in [section 7 of this act]; and

(4) for the biennium beginning July 1, 2015, $10 million is appropriated from the sage grouse stewardship account established in [section 7 of this act] to the department of natural resources and conservation for the purposes of [this act]. If the United States fish and wildlife service lists the greater sage-grouse (Centrocercus urophasianus) as endangered under the Endangered Species Act, 16 U.S.C. 1531, et seq., any unencumbered portion of the appropriation made pursuant to this subsection (4) must revert to the general fund.

Section 19. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2015

CHAPTER NO. 446

[HB 6]

AN ACT IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for renewable resource grants. (1) For the biennium beginning July 1, 2015, there is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation up to:

(a) $100,000 for emergency projects to be awarded by the department over the course of the biennium;

(b) $700,000 for planning grants to be awarded by the department over the course of the biennium;

(c) $200,000 for irrigation development grants to be awarded by the department over the course of the biennium;

(d) $300,000 for watershed grants to be awarded by the department over the course of the biennium; and

(e) $100,000 for septic loan grants to be awarded by the department over the course of the biennium.

(2) There is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation up to $4,172,615 for grants to political subdivisions and local governments during the biennium beginning July 1, 2015. The funds referred to in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts listed in subsection (4), subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the renewable resource grant and loan program January 2015 report to the 64th legislature.

(3) Funds must be awarded up to the amounts approved in subsection (4) in the following order of priority until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. If at any time a grant sponsor determines that a project will not begin before June 30, 2017, the sponsor shall notify the department of natural resources and conservation.

(4) The following are the prioritized grant projects:

RENEWABLE RESOURCE GRANT AND LOAN PROGRAM

Applicant/Project	Amount
Bitterroot Conservation District	
(Supply Diversion Improvement Project)	$125,000
Whitefish, City of	
(I & I Mitigation Project)	$125,000
White Sulphur Springs, City of	
(Wastewater Improvements Project - Phase 2)	$125,000
Polson, City of	
(Wastewater System Improvements)	$125,000
Livingston, City of	
(Wastewater Treatment Plant Upgrades)	$125,000
Cascade, Town of	
(Missouri River Reclamation)	$125,000
Bitter Root Irrigation District	
(Siphon 1 - Phase 3 Improvements Project)	$125,000
Westby, Town of	
(Wastewater System Improvements)	$125,000
Bainville, Town of	
(Wastewater System Improvements)	$125,000

Fallon County Water and Sewer District	
(Wastewater Collection System)	$125,000
Sidney, City of	
(Wastewater Improvements Project Phase II)	$125,000
Terry, Town of	
(Wastewater Treatment Upgrades)	$125,000
Department of Natural Resources and Conservation-Water Resources Division	
(Musselshell Basin Instrumentation Project)	$125,000
Pondera County Conservation District	
(Wasteway Rehabilitation and Water Quality Improvements Project)	$125,000
Upper and Lower River Road Water and Sewer District	
(Phase 5 Water and Sewer Improvements)	$125,000
Missoula County	
(Mill Creek Restoration Project)	$125,000
Flaxville, Town of	
(Wastewater System Improvements)	$125,000
Milk River Joint Board of Control	
(Hydrometric Gauging Station Expansion and Upgrade Project)	$125,000
Missoula, City of	
(Caras Park Outfall Stormwater Treatment Retrofit, Phase 1)	$125,000
Chester, Town of	
(Wastewater Improvements)	$125,000
Hysham, Town of	
(Water System Improvements)	$125,000
Simms County Sewer District	
(Wastewater System Improvements)	$125,000
Ten Mile/Pleasant Valley Sewer District	
(Wastewater System Improvements Phase 3)	$125,000
Laurel, City of	
(Water System Improvements)	$125,000
Pondera County Conservation District	
(C-5 Canal Conversion Project)	$125,000
Fromberg, Town of	
(Wastewater System Improvements)	$125,000
Jefferson County	
(Whitehall Sugar Beet Row Wastewater System Improvements)	$125,000
Sweet Grass County Conservation District	
(Electric Light Ditch Irrigation Diversion Rehabilitation Project)	$125,000
Butte-Silver Bow Consolidated City-County	
(Moulton Reservoir - Reclamation & Protection Project)	$125,000
Rocker, Montana County Water and Sewer District	
(Sewer Connection to TIFID Wastewater Pipeline)	$125,000

Tri-County Water District	
(Wastewater Treatment Project)	$125,000
Neihart, Town of	
(Water System Improvements)	$125,000
Cut Bank, City of	
(Wastewater Treatment Project)	$125,000
Missoula County	
(Buena Vista Trailer Community Wastewater Improvements Phase 1)	$125,000
Denton, Town of	
(Water System)	$125,000
Buffalo Rapids Irrigation Project District 1	
(Lateral 19.3 Pipeline Conversion Project Phase 1)	$125,000
Winifred, Town of	
(Water System Improvements)	$125,000
Highwood County Water and Sewer District	
(Wastewater System Improvements)	$125,000
Lower Yellowstone Irrigation Project	
(Wasteway Project)	$65,000
Department of Natural Resources and Conservation-Water Resources Division	
(East Fork Rock Creek Main Canal Lining Project)	$125,000
Riverside Water and Sewer District	
(Wastewater Facility Plan)	$125,000
Lewistown, City of	
(Riverdale Subdivision Wastewater Collection System)	$125,000
East Clark Street Water and Sewer District	
(Wastewater Collection System)	$125,000
Daly Ditches Irrigation District	
(Preservation and Conservation of Resources)	$125,000
Buffalo Rapids Irrigation Project District 2	
(Main Canal Rehabilitation)	$125,000
Sidney Water Users Irrigation District	
(High Canal Phase 5 Project)	$125,000
Lower Musselshell County Conservation District	
(DMWUA South Canal Pre-Tunnel Lining Project)	$125,000
Clinton Irrigation District	
(Canal Wasteway Rehabilitation)	$125,000
Roundup, City of	
(Water System Improvements)	$125,000
Missoula County Weed District	
(Montana Biological Weed Control Coordination Project)	$100,500
Jordan, Town of	
(Wastewater System Improvements)	$125,000

Crow Tribe of Indians	
(Wastewater Collection System Improvement Project)	$125,000
Helena Valley Irrigation District	
(Irrigation Efficiency and Water Conservation Project)	$125,000
Fort Shaw Irrigation District	
(Reduce Waste Project)	$125,000
Hysham Irrigation District	
(Re-Lift Canal Improvement Project)	$125,000
South Wind Water and Sewer District	
(Water Distribution and Wastewater Collection Study)	$125,000
Bainville, Town of	
(Water System Improvements)	$125,000
Black Eagle-Cascade County Water & Sewer District	
(Wastewater Collection System Rehabilitation Phase 2)	$125,000
Yellowstone Boys and Girls Ranch	
(Wastewater Improvements Project)	$125,000
Fort Peck Tribes	
(Lateral L-42M Rehabilitation Project, Phase 1)	$125,000
Toston Irrigation District	
(Toston Canal Rehabilitation Project)	$125,000
Hot Springs, Town of	
(Wastewater Improvements Project)	$125,000
Lockwood Irrigation District	
(Pump Station Rehabilitation)	$125,000
Missoula, City of	
(Buckhouse Bridge Outfall - Stormwater Treatment Retrofit)	$125,000
Harlowton, City of	
(Phase 3 Water System Improvements)	$125,000
Greenfields Irrigation District	
(J-Lake Rehabilitation and Water Quality Improvement)	$125,000
Malta Irrigation District	
(Exeter Siphon Replacement Project)	$125,000
Garfield County Conservation District	
(Little Dry Water User's Association-Infrastructure Improvements)	$125,000
Gallatin County	
(Septic System Repair Assistance Program)	$125,000
Flaxville, Town of	
(Water System Improvements)	$125,000
Glasgow, City of	
(Water System Improvements)	$125,000
Conrad, City of	
(Conrad Water System Improvements)	$125,000

Missoula Irrigation District	
(Water Conservation Project)	$125,000
Malta Irrigation District	
(Peoples Creek Diversion Dike Rehabilitation Project)	$125,000
East Bench Irrigation District	
(Main Canal Gate Automation)	$125,000
Dillon, City of	
(Water System Improvements)	$125,000
Medicine Lake, Town of	
(Wastewater Improvements)	$125,000
Kevin, Town of	
(Wastewater Improvement Project - 2014)	$125,000
Department of Environmental Quality	
(Montana Time of Travel - Interactive Web Map Application for Montana)	$125,000
Liberty County Conservation District	
(Marias River Bank Stabilization Project - Phase 2)	$125,000
Foys Lakeside County Water and Sewer District	
(Water System Improvements)	$125,000
Ruby Valley Conservation District	
(Smith Slough/Smith Ditch Fisheries Enhancement Project)	$125,000
Green Mountain Conservation District	
(Improving Water Quality and Fish Habitat in the Vermilion River Watershed)	$120,248
Glen Lake Irrigation District	
(Costich Drop Rehabilitation Project)	$125,000
Lincoln County	
(Measuring and Modeling the Effects of Mining and Associated Reclamation Activities on Selenium and Nitrate Inputs to Lake Koocanusa)	$110,500
Petroleum County Conservation District	
(Musselshell Watershed Prioritized Projects Initiative)	$125,000
Big Sandy, Town of	
(Water System Improvements)	$125,000
RAE Subdivision County Water and Sewer District No. 313	
(Woodland Park Well)	$125,000
Judith Gap, Town of	
(Phase Sewer Improvements)	$125,000
Gore Hill County Water District	
(Water System Improvements)	$125,000
Department of Natural Resources and Conservation-Flathead Basin Commission	
(Flathead Basin Watershed Plan)	$125,000
Huntley Project Irrigation District	
(Feasibility Study)	$125,000

Crow Tribe of Indians	
(Crow Agency Renewable Energy Technology Wastewater Treatment Facility)	$117,500
Park County Conservation District	
(Upper Shields River Fish Barrier and Road Improvements)	$120,000
Bozeman, City of	
(Sourdough Canyon Natural Water Storage Assessment)	$125,000
Department of Natural Resources and Conservation-Water Resources Division	
(Willow Creek Access Road Rehabilitation Project)	$125,000
Sanders County	
(Middle Clark Fork River, Plains Reach - Channel Stabilization)	$125,000
Thompson Falls, City of	
(Water System Improvements)	$125,000
Shelby, City of	
(Stormwater System Improvements)	$125,000
Mile High Conservation District	
(Blacktail Creek Non Point Nutrient Management Project)	$125,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1(4)] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Conditions of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 64th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2017, or, in the case of grants issued under [section 1(1)], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Appropriations established. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior biennia are reauthorized for completion of contract work.

Section 5. Approval of grants — completion of biennial appropriation. The legislature, pursuant to 85-1-605, approves the renewable resource program grants listed in [section 1]. The authorization of these grants completes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Effective date. [This act] is effective July 1, 2015.

Approved May 8, 2015

CHAPTER NO. 447

[HB 8]

AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING RENEWABLE RESOURCE PROJECTS AUTHORIZED BY THE 63RD LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; AUTHORIZING THE CREATION OF A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS ON LOANS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Authorization to provide loans. (1) The legislature finds that the renewable resource project listed in this section meets the provisions of 17-5-702. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsections (2) through (4) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years:

Loan	Amount
Department of Natural Resources and Conservation - Conservation and Resource Development Division	
(Refinance Existing Debt or Rehabilitation of Water and Sewer Facilities)	$5,000,000

(3) The interest rate for the projects in this group is 4.0% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years:

Loan	Amount
Department of Natural Resources and Conservation	
(Deadman's Basin)	$500,000

Department of Natural Resources and Conservation	
(Cottonwood Flume Replacement)	$800,000
Highwood Water/Sewer District	$60,000
Yellowstone Boys and Girls Ranch, WSD	$800,000
City of Dillon	$50,000

(4) The interest rate for the project in this group is 4.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:

Loan	Amount
Bitter Root Irrigation District	$1,773,976

Section 2. Projects not completing requirements — projects reauthorized. (1) The legislature finds that the following renewable resource projects that were approved by the 63rd legislature in Chapter 365, Laws of 2013, may not complete the requirements necessary to obtain the loan funds prior to June 30, 2015. The projects described in this section are reauthorized. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsection (2) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this group is 4.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years.

Loan	Amount
Dry Prairie Regional Water Authority	
(Local Match for Dry Prairie Projects)	$6,000,000
North Central Regional Water Authority	
(Local Match for North Central Projects)	$10,000,000

Section 3. Coal severance tax bonds authorized. (1) The legislature finds that Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific approved renewable resource projects as part of the state renewable resource grant and loan program. Available funds from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be necessary, pursuant to the conditions in 85-1-605, to fund emergency loans, as authorized and approved in accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 through 7]. The board of examiners is authorized to issue coal severance tax bonds in an amount not to exceed $27,482,374 in the biennium beginning July 1, 2015, of which up to $2,498,398 is to be used to establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural resources and conservation for financing the projects identified in [sections 1 and 2] and may be used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the rate must be reduced to the rate specified by the legislature.

(2) In connection with the issuance of coal severance tax bonds, the board of examiners may pay the principal and interest on the bonds when due from the debt service account and in all other respects manage and use the funds within each special bond account for the benefit of the bonds. The board of examiners shall exercise its discretion to enhance the marketability of the bonds and to secure the most advantageous financial arrangements for the state.

(3) Earnings on bond proceeds prior to the completion of any loan must be allocated to the debt service account to pay the debt service on the bonds during

this period. Earnings in excess of debt service, if any, must be allocated to the natural resources projects state special revenue account established in 15-38-302.

(4) Loan repayments from loans financed with coal severance tax bonds are pledged, dedicated, and appropriated to the debt service account in the state treasury for the benefit of bonds approved for loans under this section.

Section 4. Condition of loans. (1) Disbursement of funds under [sections 1 and 2] for loans is subject to the following conditions that must be met by project sponsors:

(a) approval of a scope of work and budget for the project by the department of natural resources and conservation. Reductions in a scope of work or budget may not affect priority activities or improvements.

(b) documented commitment of other funds required for project completion;

(c) satisfactory completion of conditions described in the recommendations section of the project narrative in the renewable resource grant and loan program project evaluations and recommendations report;

(d) execution of a loan agreement with the department of natural resources and conservation; and

(e) accomplishment of other specific requirements considered necessary by the department of natural resources and conservation to accomplish the purpose of the loan as evidenced from the application to the department or from the proposal to the legislature.

(2) Each sponsor authorized for a loan from coal severance tax bond proceeds may be required to pay to the department of natural resources and conservation a pro rata share of the bond issuance costs and the administrative costs incurred by the department to complete the loan transaction.

Section 5. Private and discount purchase of loans. Loans to political subdivisions and local government entities pursuant to [sections 1 and 2] and bonds, warrants, and notes issued in evidence of those loans may be made, purchased by, and sold to the department of natural resources and conservation at a discount and at a private negotiated sale, notwithstanding the provisions of any other law applicable to political subdivisions or local government entities.

Section 6. Appropriations established. For any entity of state government that receives a loan under [section 1 or 2], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation for the biennium beginning July 1, 2015.

Section 7. Creation of state debt — appropriation of coal severance tax — bonding provisions. (1) Because [section 3] authorizes the creation of a state debt, a vote of two-thirds of the members of each house of the legislature is required for enactment.

(2) The legislature, through the enactment of [sections 1 through 7] by a vote of three-fourths of the members of each house of the legislature, as required by Article IX, section 5, of the Montana constitution, pledges, dedicates, and appropriates from the coal severance tax bond fund all money necessary for the payment of principal and interest not otherwise provided for on the coal severance tax bonds authorized by [section 3] to be issued pursuant to Title 17, chapter 5, part 7, and pursuant to the provisions of [sections 1 through 7] and the general resolution for this bond program that has been adopted by the board of examiners under the authority provided in Title 17, chapter 5, part 7.

Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Effective date. [This act] is effective July 1, 2015.

Approved May 8, 2015

CHAPTER NO. 448

[HB 10]

AN ACT REVISING LAWS RELATED TO INFORMATION TECHNOLOGY CAPITAL PROJECTS; APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2017; PROVIDING FOR MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF TRANSPORTATION, AND THE JUDICIAL BRANCH; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [this act], the following definitions apply:

(1) "Chief information officer" has the meaning provided in 2-17-506.

(2) "Information technology" has the meaning provided in 2-17-506.

(3) "Information technology capital project" means a group of interrelated information technology activities that are planned and executed in a structured sequence to create a unique product or service.

(4) "LRITP" means the long-range information technology program account in the capital projects fund type.

Section 2. Appropriations and authorizations. (1) All business application systems funded under this section must have a plan approved by the chief information officer for the design, definition, creation, storage, and security of the data associated with the application system. The security aspects of the plan must address but are not limited to authentication and granting of system privileges, safeguards against unauthorized access to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal of sensitive data from the system when it is no longer needed. It is the intent of this subsection that specific consideration be given to the potential sharing of data with other state agencies in the design, definition, creation, storage, and security of the data.

(2) Funds may not be released for a project until the chief information officer and the budget director approve the plans described in subsection (1).

(3) The following money is appropriated to the department of administration to be used only for the indicated information technology capital projects:

Agency/ Project	LRITP	State Special Revenue	Federal Special Revenue	Proprietary	Total
DEPARTMENT OF ADMINISTRATION					
Statewide Information Technology Projects	6,466,000				6,466,000

The department of administration may prioritize the expenditure of the statewide information technology projects appropriation among the network and security upgrades, data protection initiative, statewide public safety communication system, security system replacement/assessments, and court technology improvement program projects. The department will report the use of the funds to the legislative finance committee.

~~Enterprise Electronic Content Management~~				
~~$1,000,000~~				~~$1,000,000~~
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES				
Enhanced Federal Financial Participation and A-87 Cost Allocation Waiver	2,000,000	18,000,000		20,000,000
DEPARTMENT OF TRANSPORTATION				
PPMS, Risk-Based Management, Linear Referencing System		650,000	4,350,000	5,000,000
Financial Management Suite		3,000,000		3,000,000

Section 3. Fund transfer. The amount of $10.3 million is transferred from the general fund to the LRITP on July 1, 2015.

Section 4. Judicial branch information technology capital projects appropriation. (1) There is appropriated to the supreme court $834,000 from the LRITP for courtroom technology improvements in the judicial branch.

(2) Before encumbering any funds appropriated in subsection (1), the office of court administrator shall submit a project and security plan, as described in [section 2(1)], to the chief information officer. The chief information officer shall promptly review the plan and, if necessary, make timely recommendations to the office of court administrator regarding implementation of the plan.

(3) As part of the annual report to the law and justice interim committee and the house appropriations subcommittee required under 3-1-702, the office of court administrator shall include an update on the implementation of projects funded under this section.

Section 5. Direction to department of administration — state data center. The department of administration is directed to:

(1) encourage all state agencies to transition to the state data center unless there is a documented financial or security reason that justifies why the agency should not use the state data center;

(2) leverage the state data center for local governments, school districts, and the university system to use; and

(3) market the use of the state data center to other states if excess capacity exists.

Section 6. Statewide networks efficiencies. (1) The department of administration is directed to leverage federal funds and other resources to the

maximum extent possible to assist with infrastructure obligations associated with federal and other programs.

(2) State agencies are authorized to utilize existing appropriation authority to support or enhance enterprise electronic content management services.

Section 7. Appropriation — third-party audit requirement for medicaid management information systems replacement. (1) The department of public health and human services is appropriated $7,500 in general fund and $67,500 in federal funds for the purpose of securing an independent audit as set forth in subsection (2).

(2) The department of public health and human services shall retain its current independent verification and validation vendor to audit, review, and issue a report regarding the medicaid management information systems replacement contract vendor's activities related to contract 12-12-1-01-001-1. At a minimum, the audit and report by the current independent verification and validation vendor must:

(a) analyze the ability of the replacement contract vendor to complete and comply with all contractual requirements, terms, and conditions, in particular, by the May 2017 implementation date pursuant to amendment number 5 to the contract; and

(b) review projects in other states where the replacement contract vendor has implemented or is in the process of implementing a medicaid management information system to understand and extrapolate the experiences, impacts, costs, and delays of those states and analyze the potential for the same issues occurring with the Montana systems replacement in the future.

(3) The outcomes and recommendations from the current independent verification and validation vendor must be reported to the legislative finance committee no later than July 1, 2015.

Section 8. Fiscal agent services for current legacy medicaid management information systems. In the event of nonperformance or breach of contract 12-12-1-01-001-1 by the medicaid management information systems replacement contract vendor or of adverse audit recommendations by the independent verification and validation vendor regarding the inability of the replacement contract vendor to fulfill all contractual requirements, terms, and conditions of the contract by the May 2017 implementation date, the department of public health and human services is authorized to request a bid for a new fiscal agent for the current legacy medicaid management information system. The department may not accept any bids from the medicaid management information systems replacement contract vendor unless and until the department has reached an agreement with the contract vendor on any pending or threatened legal action.

Section 9. Authorization for department of public health and human services to terminate medicaid management information systems replacement contract. (1) In the event of nonperformance or breach of contract 12-12-1-01-001-1 by the medicaid management information systems replacement contract vendor or of adverse audit recommendations by the independent verification and validation vendor regarding the inability of the replacement contract vendor to fulfill all contractual requirements, terms, and conditions of the contract by the May 2017 implementation date, the department of public health and human services is authorized to terminate contract 12-12-1-01-001-1 and to procure medicaid management information system services consistent with the direction and approval of the centers for medicare and medicaid services.

(2) If the department elects to terminate the contract, it is directed to take all legal action necessary to recover previously appropriated funds and any other damages caused by or related to the replacement contract vendor's inability to timely comply with its contractual obligations.

(3) In addition to the amounts authorized in [this act], the department may utilize its existing appropriation authority to take advantage of the A-87 cost allocation waiver.

Section 10. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 11. Effective date. (1) Except as provided in subsection (2), [this act] is effective July 1, 2015.

(2) [Section 7] and this section are effective on passage and approval.

Approved May 8, 2015

Note: The striking of language in section 2 was done by Governor's line item veto dated May 8, 2015.

CHAPTER NO. 449

[HB 140]

AN ACT REVISING LAWS RELATED TO HUNTING AND FISHING LICENSES; REQUIRING AN ADDITIONAL BUDGET REVIEW AND REPORT TO THE LEGISLATURE; CREATING A BASE HUNTING LICENSE; REORGANIZING AND RECODIFYING CERTAIN LICENSE STATUTES; CLARIFYING THE PRICE OF A CLASS B-12 NONRESIDENT ANTLERLESS ELK B TAG LICENSE; INCREASING FISHING LICENSE FEES; ELIMINATING FREE LICENSES FOR CERTAIN YOUTH, SENIOR, DISABLED, AND NONRESIDENT HUNTERS AND ANGLERS AND STANDARDIZING DISCOUNTED LICENSE PRICES; CLARIFYING THE FEES FOR CLASS B-10 NONRESIDENT BIG GAME COMBINATION LICENSES AND CLASS B-11 NONRESIDENT DEER COMBINATION LICENSES; EQUALIZING LICENSES AVAILABLE TO AND FEES FOR NONRESIDENT RELATIVES OF RESIDENTS AND NONRESIDENTS WHO HUNT WITH A RESIDENT SPONSOR OR FAMILY MEMBER; INCREASING THE CLASS B-14 NONRESIDENT COLLEGE STUDENT BIG GAME COMBINATION LICENSE FEE; INCREASING NONRESIDENT MOOSE, MOUNTAIN GOAT, MOUNTAIN SHEEP, AND BISON LICENSE FEES; AUTHORIZING FREE FISHING FOR ALL YOUTH UNDER AGE 12; REDUCING LICENSE AGE BRACKETS FOR YOUTH; REVISING DISTRIBUTION OF HUNTING LICENSE REVENUE FOR HUNTING ACCESS PROGRAMS; CREATING AN APPRENTICE HUNTING CERTIFICATE FOR YOUTH BETWEEN 10 AND 18 YEARS OF AGE AND PROVIDING QUALIFYING CONDITIONS; AMENDING SECTIONS 61-8-369, 87-1-270, 87-1-290, 87-2-104, 87-2-105, 87-2-202, 87-2-301, 87-2-302, 87-2-304, 87-2-306, 87-2-307, 87-2-403, 87-2-404, 87-2-505, 87-2-506, 87-2-510, 87-2-511, 87-2-514, 87-2-520, 87-2-522, 87-2-525, 87-2-526, 87-2-701, 87-2-706, 87-2-711, 87-2-801, 87-2-803, 87-2-805, 87-6-301, 87-6-403, 87-6-405, AND 87-6-921, MCA; REPEALING SECTIONS 87-2-515 AND 87-2-809, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Review of budget — report to legislature. In addition to the requirements of Title 17, chapter 7, part 1, every 4 years the department shall review its expenditures and revenue to determine the need for making license revenue recommendations to the legislature. The department shall report the findings of its review to the legislature in the next regular session. The first report is due January 1, 2019.

Section 2. Base hunting license prerequisite for other hunting licenses — fee. (1) To be eligible to apply for a hunting license or Class A-2 special bow and arrow license a person must first obtain a base hunting license as provided in this section. The base hunting license must be purchased once each license year.

(2) Resident base hunting licenses may be purchased for a fee of $10, of which $2 is a hunting access enhancement fee that must be used by the department to fund programs established in 87-1-265 through 87-1-267.

(3) Nonresident base hunting licenses may be purchased for a fee of $15, of which $10 is a hunting access enhancement fee that must be used by the department to fund programs established in 87-1-265 through 87-1-267.

Section 3. Section 61-8-369, MCA, is amended to read:

"61-8-369. Shooting from or across road or highway right-of-way. Except as provided in ~~87-2-803(4)~~ *87-2-803(5)*, a person may not shoot a firearm from or across the right-of-way of a highway."

Section 4. Section 87-1-270, MCA, is amended to read:

"87-1-270. (Temporary) Allocation of license fees to hunting access enhancement program. (1) Except as provided in ~~87-2-805(1)(b)(ii)~~ *87-2-514 and 87-2-805(3)*, ~~the amount of~~ *the department shall use* $55 from the sale of each Class B-1 nonresident upland game bird license and $25 from the sale of each Class B-2 3-day nonresident upland game bird license ~~must be used by the department~~ to encourage public access to private lands for hunting purposes in accordance with 87-1-265 through 87-1-267.

(2) The ~~resident~~ *department shall use the* hunting access enhancement ~~fee in 87-2-202(3)(c) and the nonresident hunting access enhancement fee in 87-2-202(3)(d) must be used by the department~~ *fees collected pursuant to [section 2]* to encourage public access to private and public lands for hunting purposes in accordance with 87-1-265 through 87-1-267. (Terminates June 30, 2019—sec. 6, Ch. 204, L. 2013.)

87-1-270. (Effective July 1, 2019) Allocation of license fees to hunting access enhancement program. (1) Except as provided in ~~87-2-805(1)(b)(ii)~~ *87-2-514 and 87-2-805(3)*, ~~the amount of~~ *the department shall use* $55 from the sale of each Class B-1 nonresident upland game bird license ~~must be used by the department~~ to encourage public access to private lands for hunting purposes in accordance with 87-1-265 through 87-1-267.

(2) The ~~resident~~ *department shall use the* hunting access enhancement ~~fee in 87-2-202(3)(c) and the nonresident hunting access enhancement fee in 87-2-202(3)(d) must be used by the department~~ *fees collected pursuant to [section 2]* to encourage public access to private and public lands for hunting purposes in accordance with 87-1-265 through 87-1-267."

Section 5. Section 87-1-290, MCA, is amended to read:

"87-1-290. Hunting access account. (1) There is a hunting access account in the state special revenue fund. Funds deposited in this account ~~may~~ *must* be

used ~~only~~ for the purpose of funding any hunting access program established by law or by the department through administrative rule.

(2) The following funds must be deposited in the account:

(a) ~~25%~~ *28.5%* of the fee for Class B-10 nonresident big game combination licenses pursuant to 87-2-505~~(1)(c)~~ and ~~25%~~ *28.5%* of the fee for Class B-11 nonresident deer combination licenses pursuant to 87-2-510~~(1)(b)~~;

(b) ~~25%~~ *28.5%* of the fee for hunting licenses issued to nonresident relatives of a resident pursuant to 87-2-514; and

(c) the hunting access enhancement fees ~~assessed~~ *collected* pursuant to ~~87-2-202(3)(c) and (3)(d)~~ *[section 2]*.

(3) Any interest or income earned on the account must be deposited in the account."

Section 6. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses, permits, or tags allowed — fees. (1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed $5.

(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, Class E-1 resident wolf, Class E-2 nonresident wolf, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant.

(3) For all of the game management licenses issued under subsection (2), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take an antlerless elk. Unless otherwise reduced pursuant to subsection (5), the fee for a Class B-12 license is ~~$273~~ *$270*. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

(5) The fee for a resident or nonresident license of any class issued under subsection (2) or (4) may be reduced annually by the department."

Section 7. Section 87-2-105, MCA, is amended to read:

"87-2-105. Safety instruction required. (1) Except for a youth who qualifies for a license pursuant to 87-2-805(4) *or who has been issued an apprentice hunting certificate pursuant to [section 38]*, a hunting license may not be issued to a person ~~who is~~ born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection (4) or (6);

(b) a hunter safety course in any other state or province; or

(c) a Montana hunter safety and education course that qualifies the person for a provisional certificate as provided in 87-2-126.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's dependents, as defined in 15-30-2115, who reside in the member's Montana household, unless the person authorized to issue the license determines proof of completion of a hunter safety course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

(5) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to ~~any~~ *a* person successfully completing the course.

(6) The department may develop an adult hunter safety and education course.

(7) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

Section 8. Section 87-2-202, MCA, is amended to read:

"87-2-202. Application — fee — ~~expiration~~. (1) Except as provided in ~~87-2-803(12)~~ *[section 37(2)]*, a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to

purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to ~~87-2-803(12)~~ *[section 37(2)]*.

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

~~(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.~~

~~(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.~~

~~(4) Licenses issued are void after the last day of February next succeeding their issuance.~~

[~~(5)~~*(4)* The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

~~(6)~~*(5)* The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency—sec. 3, Ch. 321, L. 2001. The $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)"

Section 9. Section 87-2-301, MCA, is amended to read:

"87-2-301. Class A—resident fishing license. A resident, as defined by 87-2-102, upon payment of a fee of ~~$18~~ *$21*, is entitled to receive a Class A license that authorizes the holder of the license to fish with hook and line or rod as prescribed by rules of the department."

Section 10. Section 87-2-302, MCA, is amended to read:

"87-2-302. Class B—nonresident fishing license. Any person not a resident, as defined in 87-2-102, upon payment of the sum of ~~$60~~ *$86* to any agent of the department authorized to issue fishing and hunting licenses, is entitled to a Class B license that entitles the holder to fish with hook and line as authorized by the rules and regulations of the department."

Section 11. Section 87-2-304, MCA, is amended to read:

"87-2-304. Class B-4—two-day nonresident fishing license. Any person not a resident, as defined in 87-2-102, who is a holder of a valid wildlife conservation license, upon payment of the sum of ~~$15~~ *$25* to any agent of the department authorized to issue fishing and hunting licenses, is entitled to a 2-day nonresident fishing license that authorizes the holder to fish with hook and line, as prescribed by rules and regulations of the department, for 2 calendar days as indicated on the license."

Section 12. Section 87-2-306, MCA, is amended to read:

"87-2-306. Paddlefish tags. ~~(1)~~ The department may issue paddlefish tags to ~~persons listed in subsection (2)~~ *holders of valid Class A, Class A-8, Class B, Class B-4, and Class B-5 fishing licenses* for a fee of $6.50 for residents and $15 for nonresidents. Each tag authorizes the holder to fish with hook and line for paddlefish as prescribed by rules of the department.

~~(2) The following persons may obtain paddlefish tags pursuant to this section:~~

~~(a) holders of valid Class A, Class A-8, Class B, Class B-4, and Class B-5 fishing licenses;~~

~~(b) residents under 15 years of age with a valid wildlife conservation license; and~~

~~(c) residents 62 years of age or older with a valid wildlife conservation license.~~"

Section 13. Section 87-2-307, MCA, is amended to read:

"87-2-307. Class B-5—10-day nonresident fishing license. Any person not a resident, as defined in 87-2-102, who is a holder of a valid wildlife conservation license, upon payment of the sum of ~~$43.50~~ *$56* to any agent of the department authorized to issue fishing and hunting licenses, is entitled to a 10-day nonresident fishing license that authorizes the holder to fish with hook and line, as prescribed by rules and regulations of the department, for 10 consecutive days as indicated on the license."

Section 14. Section 87-2-403, MCA, is amended to read:

"87-2-403. Wild turkey tags and fee. (1) The department may issue wild turkey tags to the holder of a valid Class A-1 or nonresident wildlife conservation license ~~or as set out in subsection (3)~~. Each tag entitles the holder to hunt one wild turkey and possess the carcass of the turkey, during times and places that the commission authorizes an open season on wild turkey.

(2) The fee for a wild turkey tag is $6.50 for a resident and $115 for a nonresident, except that a nonresident holder of a valid Class B-1, Class B-10, or Class B-11 license may purchase a wild turkey tag for ~~$55~~ *one-half of the nonresident fee*. Turkey tags must be issued either by a drawing system or in unlimited number as authorized by department rules.

~~(3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805 may purchase a wild turkey tag upon presentation of that person's wildlife conservation license.~~"

Section 15. Section 87-2-404, MCA, is amended to read:

"87-2-404. Three-day nonresident captive-reared bird hunting stamp. ~~A~~ *Except as otherwise provided, a* person who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and who is not a resident, as defined in 87-2-102, may, upon payment of a fee of $20, receive a 3-day nonresident shooting preserve bird hunting stamp

that authorizes a holder who is 12 years of age or older to hunt game specified under 87-4-522 on a shooting preserve licensed under 87-4-501 for 3 consecutive calendar days as indicated on the license."

Section 16. Section 87-2-505, MCA, is amended to read:

"87-2-505. Class B-10—nonresident big game combination license. (1) ~~(a)~~ Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of ~~$897~~ *$981* ~~plus the nonresident hunting access enhancement fee in 87-2-202(3)(d)~~ and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202.

~~(b)~~*(2)* Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

~~(c)~~*(3)* Of the fee paid for the purchase of a Class B-10 nonresident big game combination license pursuant to subsection (1)~~(a)~~, ~~25%~~ *28.5%* must be deposited in the account established in 87-1-290.

~~(d)~~*(4)* ~~The~~ *The* cost of the Class B-10 nonresident big game combination license must be adjusted annually based on any change to the consumer price index from the previous year. The consumer price index to be used for calculations is the consumer price index for all urban consumers (CPI-U). *The adjusted cost must be rounded down to the nearest even-numbered amount.*

~~(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of $25 to participate in a preference system for deer and elk permits established by the commission.~~"

Section 17. Section 87-2-506, MCA, is amended to read:

"87-2-506. Restrictions on hunting licenses. (1) The department may prescribe by rule the number of hunting licenses to be issued. Any license sold may be restricted to a specific administrative region, hunting district, or other designated area and may specify the species, age, and sex to be taken and the time period for which the license is valid.

(2) When the number of valid resident applications for big game licenses or permits of a single class or type exceeds the number of licenses or permits the department desires to issue in an administrative region, hunting district, or other designated area, then the number of big game licenses or permits issued to nonresident license or permitholders in the region, district, or area may not exceed 10% of the total issued.

(3) Disabled veterans who meet the qualifying criteria provided in ~~87-2-803(5)~~ *[section 37(1)]* must be provided a total of 50 Class A-3 deer A tags, 50 Class A-4 deer B tags, 50 Class B-7 deer A tags, 50 Class B-8 deer B tags, and 50 special antelope licenses annually, which may be used within the administrative region, hunting district, or other designated area of the disabled veteran's choice, except in a region, district, or area where the number of licenses are less than the number of applicants, in which case qualifying disabled veterans are eligible for no more than 10% of the total licenses for that region, district, or area."

Section 18. Section 87-2-510, MCA, is amended to read:

"87-2-510. Class B-11—nonresident deer combination license. (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of ~~$527~~ *$577* ~~plus the nonresident hunting access enhancement fee in 87-2-202(3)(d)~~ and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(b) Of the fee paid for the purchase of a Class B-11 nonresident deer combination license pursuant to subsection (1)(a), ~~25%~~ *28.5%* must be deposited in the account established in 87-1-290.

(c) ~~The~~ *The* cost of the Class B-11 nonresident deer combination license must be adjusted annually based on any change to the consumer price index from the previous year. The consumer price index to be used for calculations is the consumer price index for all urban consumers (CPI-U). *The adjusted cost must be rounded down to the nearest even-numbered amount.*

(2) Not more than 4,600 unreserved Class B-11 licenses may be sold in any 1 license year.

~~(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of $25 to participate in a preference system for deer and elk permits established by the commission.~~"

Section 19. Section 87-2-511, MCA, is amended to read:

"87-2-511. Sale and use of Class B-10, Class B-11, and Class B-13 licenses. (1) The department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each

resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(5) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses.

(6) (a) An applicant who applies for a Class B-10 license and an applicable special elk permit but who is not successful in a drawing for the special elk permit may choose to retain only the Class B-7 portion of the Class B-10 license. The department shall sell the Class B-7 portion as a Class B-11 license for the fee set in 87-2-510. The provisions of this subsection (6)(a) do not affect the limits established in 87-2-510(2). The remaining elk tag portion of the Class B-10 license must be sold by the department as an elk-only combination license for a fee ~~that is $150 less than that set for a Class B-10 license in 87-2-505~~ *of $831.*

(b) Subject to the statutory quota provided in 87-2-505, if the department determines all available elk-only combination licenses have sold by December 1 in any license year, the cost of the elk-only combination license must be adjusted for the subsequent license year based on any change to the consumer price index from the previous year. The consumer price index to be used for calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded down to the nearest even-numbered amount and applies to subsequent license years, unless the conditions of this subsection are met.

~~(b)~~*(c)* The department may retain 10% of the Class B-10 license fee if an applicant chooses to buy only a portion of the Class B-10 license pursuant to subsection (6)(a) after the Class B-10 license has been issued to the applicant.

~~(c)~~*(d)* The revenue collected pursuant to this subsection (6) must be deposited in the state special revenue account to the credit of the department and may not be allocated pursuant to other statutory requirements generally applicable to Class B-10 or Class B-11 licenses.

(7) Subject to 87-2-522(2), at the time of application, an applicant for a Class B-13 license shall provide the name and automated licensing system number of the adult immediate family member who will accompany the youth."

Section 20. Section 87-2-514, MCA, is amended to read:

"87-2-514. Nonresident relative of resident allowed to purchase nonresident licenses at reduced cost — definitions. (1) For the purposes of this section, the following definitions apply:

(a) "Nonresident relative of a resident" means a person born in Montana who is the natural or adoptive child, sibling, or parent of a resident but is not a resident.

(b) "Resident" means a resident as defined in 87-2-102.

(2) Except as otherwise provided in this chapter, a nonresident relative of a resident who meets the qualifications of subsection (5) may purchase *the following at one-half the cost*:

(a) a Class B nonresident fishing license;

(b) a Class B-1 nonresident upland game bird license;

(c) a Class B-10 nonresident big game combination license; and

~~(c)~~*(d)* a Class ~~B-7 nonresident deer A tag; and~~ *B-11 nonresident deer combination license.*

~~(d) a Class B-15 nonresident elk license as provided in 87-2-515.~~

~~(3) This section does not allow a nonresident relative of a resident to purchase nonresident combination licenses at a reduced price.~~

~~(4)~~*(3)* ~~The fee for a nonresident license purchased pursuant to subsection (2) is four times the amount charged for an equivalent resident license.~~ The nonresident relative of a resident shall also purchase a nonresident wildlife conservation license as prescribed in 87-2-202 and ~~pay the nonresident hunting access enhancement fee in 87-2-202(3)(d)~~ *a nonresident base hunting license as prescribed in [section 2]* if the nonresident relative of a resident purchases a hunting license.

(4) Class B-10 and Class B-11 licenses sold pursuant to subsection (2) are not included in the limit on the number of available Class B-10 and Class B-11 licenses issued pursuant to 87-2-505 and 87-2-510.

(5) To qualify for a license pursuant to subsection (2), a nonresident relative of a resident shall apply at any department regional office or at the department's state office in Helena and present proof of the following:

(a) a birth certificate verifying the applicant's birth in Montana or documentation that the applicant was born to parents who were residents at the time of birth;

(b) evidence that the person previously held a Montana resident hunting or fishing license or has passed a hunter safety course in Montana pursuant to 87-2-105; and

(c) proof that the applicant is a nonresident relative of a resident.

(6) Of the fee paid for a hunting license purchased pursuant to subsection (2), 28.5% must be deposited in the account established in 87-1-290."

Section 21. Section 87-2-520, MCA, is amended to read:

"87-2-520. Supplemental game damage license — terms and conditions. (1) If at any time the department determines, in conjunction with a landowner or a designated lessee acting as an agent for a landowner, that game animals on the property are causing a level of damage to crops or other vegetation that merits removal of a specific number of game animals or that the taking of a specific number of game animals is advisable for game management purposes, the department may issue nontransferable resident and nonresident supplemental game damage hunting licenses for game management purposes on the property.

(2) Supplemental game damage hunting licenses may be issued only for antlerless animals and may be issued only for use on lands eligible for game damage assistance pursuant to 87-1-225. A landowner may not charge a fee to a hunter using a license obtained pursuant to this section.

(3) Supplemental game damage licenses may be issued to hunters as an alternative to issuing a kill permit to a landowner.

(4) (a) In a hunting district with unlimited license quotas, a landowner may designate the resident supplemental game damage license recipient upon approval of issuance*, including a recipient who has obtained an apprentice hunting certificate pursuant to [section 38]*.

(b) In a hunting district with limited permit quotas, a landowner may designate up to 75% of the resident supplemental game damage license recipients, with the remainder of the licenses offered to hunters in a manner prescribed by the department.

(5) If additional supplemental game damage licenses are available, the department may issue those licenses to resident and nonresident hunters.

(6) A licensee shall pay the regular license price or an adjusted price set by the commission for any supplemental game management license issued pursuant to subsection (1). Issuance of a supplemental game damage license authorizes the licensee to hunt, take, and possess the game animal designated on the license. All hunting under a supplemental game damage license must be conducted on the property designated on the license and in accordance with department regulations."

Section 22. Section 87-2-522, MCA, is amended to read:

"87-2-522. Class B-13—nonresident youth big game combination license. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, and who is 12 years of age or older or will turn 12 years old before or during the season for which the license is issued and who is under 18 years of age may, upon payment of a fee of one-half *of* the cost of a regularly priced Class B-10 nonresident big game combination license~~, plus the nonresident hunting access enhancement fee in 87-2-202(3)(d),~~ and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office in Helena, Montana, to purchase a Class B-13 nonresident youth big game combination license.

(2) The holder of a Class B-13 license is entitled to all the privileges of a Class B license, a Class B-1 license, a Class B-7 license, an elk tag, and a nonresident wildlife conservation license. When using a Class B-13 license, the holder must be accompanied by an adult immediate family member who is the holder of a valid Class B-7, Class B-10, *or* Class B-11~~, or Class B-15~~ license or who is the holder of a valid resident deer or elk tag. As used in this subsection, an adult immediate family member means an applicant's natural or adoptive parent, grandparent, brother, or sister who is 18 years of age or older.

(3) Class B-13 licenses are not included in the limit on the number of available Class B-10 nonresident big game combination licenses issued pursuant to 87-2-505.

(4) The holder of a valid Class B-13 license may apply for a Class B-12 nonresident elk B tag license when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is $270. The license entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions specified by the commission."

Section 23. Section 87-2-525, MCA, is amended to read:

"87-2-525. Class B-14—nonresident college student big game combination license. (1) A student who is not a resident, as defined in 87-2-102, may purchase a Class B-14 nonresident college student big game combination license for ~~the same price as a Class AAA combination sports license~~ *one-half of the cost of a Class B-10 nonresident big game combination license* if that student:

(a) is currently enrolled as a full-time student at a postsecondary educational institution in Montana, with 12 credits or more being considered full-time; or

(b) (i) has a natural or adoptive parent who currently is a Montana resident, as defined in 87-2-102;

(ii) has a high school diploma from a Montana public, private, or home school or can provide certified verification that the applicant has passed the general educational development test in Montana; and

(iii) is currently enrolled as a full-time student at a postsecondary educational institution in another state.

(2) The holder of a Class B-14 license is entitled to all the privileges of a Class B license, a Class B-1 license, a Class B-7 license, an elk tag, and a nonresident wildlife conservation license.

(3) Application for a Class B-14 nonresident college student big game combination license may be made after the second Monday in September at any department regional office or at the department headquarters in Helena. To qualify, the applicant shall present a valid student identification card and verification of current full-time enrollment at a postsecondary educational institution as required by the department."

Section 24. Section 87-2-526, MCA, is amended to read:

"87-2-526. License for nonresident to hunt with resident sponsor or family member — use of license revenue. (1) ~~In addition to the nonresident licenses provided for in 87-2-505 and 87-2-510, the~~ *The* department may offer for sale 500 B-10 nonresident big game combination licenses and 500 B-11 nonresident deer combination licenses~~. The licenses may~~ *that must* be used ~~only~~ as provided in this section and as authorized by department rules. Sale of licenses pursuant to this section ~~may~~ *does* not affect the license quotas established in 87-2-505 and 87-2-510. The price of licenses sold under this subsection ~~must be the same as nonresident big game combination licenses and nonresident deer combination licenses offered by general drawing pursuant to~~ *is one-half of the fee set for the equivalent license in* 87-2-505 and 87-2-510.

(2) A license authorized in subsection (1) may be used only by an adult nonresident family member of a resident who sponsors the license application and who meets the qualifications of subsection (3). The nonresident family member must have completed a Montana hunter safety and education course or have previously purchased a resident hunting license. A nonresident family member who receives a license pursuant to subsection (1) must be accompanied in the field by a sponsor or family member who meets the qualifications of subsection (3).

(3) To qualify as a sponsor or family member who will accompany a nonresident licensed under subsection (1), a person must be a resident, as defined in 87-2-102, who is 18 years old or older and possesses a current resident hunting license and who is related to the nonresident within the second degree of kinship by blood or marriage. The second degree of kinship includes a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, and stepdaughter. The sponsor shall list on the license application the names of family members who are eligible to hunt with the nonresident hunter.

(4) If the department receives more applications for licenses than the number that are available under subsection (1), the department shall conduct a drawing for the licenses. Applicants who are unsuccessful in the drawing must be entered in the general drawing for a nonresident license provided under 87-2-505 or 87-2-510, as applicable.

(5) All money received from the sale of licenses under subsection (1) must be deposited in a separate account and must be used by the department to acquire public hunting access to inaccessible public land, which may include obtaining hunting access through private land to inaccessible public land."

Section 25. Section 87-2-701, MCA, is amended to read:

"87-2-701. Special licenses. (1) An applicant who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the department, is to be issued and shall pay the following fees:

(a) moose—resident, $125; nonresident, ~~$750~~ *$1,250*;

(b) mountain goat—resident, $125; nonresident, ~~$750~~ *$1,250*;

(c) mountain sheep—resident, $125; nonresident, ~~$750~~ *$1,250*;

(d) antelope—resident, $14; nonresident, $200;

(e) grizzly bear—resident, $150; nonresident, $1,000;

(f) black bear—nonresident, $350;

(g) wild buffalo or bison—resident, $125; nonresident, ~~$750~~ *$1,250*.

(2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear, the person shall purchase a trophy license for a fee of $50 within 10 days after the date of the kill. The trophy license authorizes the holder to possess and transport the trophy.

(3) Except as provided in 87-5-302 for special grizzly bear licenses, special licenses must be issued in a manner prescribed by the department."

Section 26. Section 87-2-706, MCA, is amended to read:

"87-2-706. Drawing for special antelope licenses — licenses for those with life-threatening illness. (1) In the event that the number of valid applications for special antelope licenses for a hunting district exceeds the quota set by the department for the district, the licenses must be awarded by a drawing. The department shall provide for those persons making valid application for special antelope licenses a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) The department shall reserve for applicants who are nonambulatory and have a permanent physical disability, as determined by the department, up to 25 of the total special antelope licenses authorized for sale in the state, excepting those licenses issued pursuant to ~~87-2-803(5)~~ *[section 37(1)]*, for use in the district designated by the commission. If the number of valid disabled applicants exceeds the number of licenses available, the department may hold a drawing in which all applicants have an equal chance of being selected.

(3) (a) The department may issue a special antelope license to a resident or nonresident who has been diagnosed with a life-threatening illness unless the person qualifies for a license pursuant to 87-2-805. As used in this subsection (3), "life-threatening illness" means any progressive, degenerative, or malignant disease or condition that results in a significant threat, likelihood, or certainty that the person's life expectancy will not extend more than 1 year from the date of the request for the license unless the course of the disease is interrupted or abated.

(b) To qualify for the license, the department must receive documentation that the person has been diagnosed with a life-threatening illness from a licensed physician.

(c) The license may be issued on a one-time basis for one hunting season.

(d) In exercising hunting privileges, the person shall conduct all hunting within the terms and conditions of the license issued.

(e) The department may issue up to 25 licenses pursuant to this subsection (3) annually. These licenses do not count against any quota set by the department. Licenses issued pursuant to this subsection (3) do not count against the number of special antelope licenses reserved for people with permanent disabilities as provided in subsection (2).

(4) The department may promulgate rules that are necessary to implement this section."

Section 27. Section 87-2-711, MCA, is amended to read:

"87-2-711. Class AAA—combination sports license. (1) ~~A~~ *Except as otherwise provided in this chapter, a* resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5 licenses and resident conservation licenses as prescribed in 87-2-202 upon payment of the sum of $70, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c), or, if the resident is a service member eligible for a combination sports license pursuant to 87-2-803(12), upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c); or

(b) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license upon payment of the sum of $85, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c).

(2) The department may furnish each holder of a combination sports license an appropriate decal."

Section 28. Section 87-2-711, MCA, is amended to read:

"87-2-711. Class AAA—combination sports license. (1) ~~A~~ *Except as otherwise provided in this chapter, a* resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5 licenses and resident conservation licenses as prescribed in 87-2-202 upon payment of the sum of $70~~, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c),~~ or, if the resident is a service member eligible for a combination sports license pursuant to ~~87-2-803(12)~~ *[section 37(2)]*, upon payment of the resident ~~hunting access enhancement~~ *base hunting license* fee provided for in ~~87-2-202(3)(c)~~ *[section 2]*; or

(b) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 ~~license~~ *tag* upon payment of the sum of $85~~, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c)~~.

(2) The department may furnish each holder of a combination sports license an appropriate decal."

Section 29. Section 87-2-801, MCA, is amended to read:

"87-2-801. ~~Residents~~ *Licenses for residents* over ~~62~~ *62* years of age — ~~resident or nonresident legion of valor members — purple heart~~

awardees. ~~(1)~~ A resident, as defined in 87-2-102, who is ~~62~~ *62* years of age or older ~~is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department. The form of the license must be prescribed by the department.~~

~~(2) A resident who is 62 years of age or older is also entitled to purchase a Class A-3 deer A tag for $10 and a Class A-5 elk tag for $12.~~ *may purchase the following for one-half the cost:*

(1) a Class A fishing license;

(2) a Class A-1 upland game bird license;

(3) a Class A-3 deer A tag;

(4) a Class A-5 elk tag;

(5) a Class AAA combination sports license that does not include a Class A-6 black bear tag.

~~(3) Regardless of age, a resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a conservation license issued by the department.~~

~~(4) Regardless of age, a resident, as defined in 87-2-102, who has been awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department.~~

~~(5) Regardless of age, a nonresident who has been awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department during expeditions arranged for the nonresident by a nonprofit organization that uses fishing and hunting as part of the rehabilitation of disabled veterans.~~

~~(6) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for license costs associated with the fishing and game bird hunting privileges granted pursuant to subsections (4) and (5) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.~~"

Section 30. Section 87-2-803, MCA, is amended to read:

"87-2-803. ~~Persons~~ *Licenses for persons* with disabilities ~~— service members~~ — definitions. (1) Persons with disabilities ~~are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they~~ *who* are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule *may purchase the following for one-half the cost:*

(a) a Class A fishing license;

(b) a Class A-1 upland game bird license;

(c) a Class A-3 deer A tag;

(d) a Class A-5 elk tag.

(2) A person who has purchased a conservation license and a resident fishing license, ~~or~~ game bird license*, deer tag, or elk tag* for a particular license year and who is subsequently certified as disabled is entitled to a refund for *one-half of the cost of* the fishing license, ~~or~~ game bird license*, deer tag, or elk tag* previously purchased for that license year.

(3) A person who is certified as disabled pursuant to subsection ~~(3)~~ *(4)* and who was issued a permit to hunt from a vehicle for license year 2014 or a subsequent license year is automatically entitled to a permit to hunt from a

vehicle for subsequent license years if the criteria for obtaining a permit ~~does~~ *do* not change.

~~(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for $6.50 and a Class A-5 elk tag for $8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.~~

~~(3)~~*(4)* A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person meets the requirements of subsection (9).

~~(4)~~*(5)* (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection ~~(4)~~ *(5)* as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection ~~(4)(d)~~ *(5)(d)* of this section.

(b) This subsection ~~(4)~~ *(5)* does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

~~(5) A veteran or a disabled member of the armed forces who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans or disabled members of the armed forces under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.~~

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of $10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. ~~An applicant for a license under this subsection~~

~~need not obtain a~~ *A* wildlife conservation license ~~as~~ *is not* a prerequisite to licensure *under this subsection (6)(a)*.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection ~~(2)~~ *(1)* of this section, and must be accompanied by a companion, as provided in subsection ~~(4)(c)~~ *(5)(c)* of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) (a) A person qualifies for a permit to hunt from a vehicle if the person is certified by a licensed physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits the person's ability to walk or carry significant weight for long distances.

(b) For the purposes of this subsection (9), the following definitions apply:

(i) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, as specified by the board of nursing pursuant to 37-8-202, in addition to completing basic nursing education.

(ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant to Title 37, chapter 12, part 3.

(iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by a licensed physician.

(iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory appliance or device for mobility.

(v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

(vi) "Physician assistant" has the meaning provided in 37-20-401.

(vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.

(10) Certification under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

~~(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident~~

~~hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.~~

~~(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).~~

~~(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.~~

~~(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.~~

~~(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return.~~"

Section 31. Section 87-2-805, MCA, is amended to read:

"87-2-805. ~~Persons~~ *Licenses for persons* under 18 years of age — youth combination sports license — youth with life-threatening illness under 18 years of age. ~~(1) (a) Resident minors who are:~~

~~(i) 12 years of age or older and under 15 years of age may fish and may hunt upland game and migratory game birds during the open season with only a conservation license;~~

~~(ii) 15 years of age may hunt migratory game birds with only a conservation license; and~~

~~(iii) under 12 years of age may fish without a license.~~

~~(b) A nonresident minor:~~

~~(i) under 15 years of age may not fish in or on any Montana waters without first having obtained a Class B, B-4, or B-5 fishing license unless the nonresident minor is in the company of an adult in possession of a valid Montana fishing license. The limit of fish for the nonresident minor and the~~

~~accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.~~

~~(ii)~~*(1) Resident and nonresident minors under 12 years of age may fish without a license.*

(2) Resident minors who are 12 years of age or older and under 18 years of age may purchase the following for one-half the cost:

(a) a Class A fishing license;

(b) a Class A-1 upland game bird license;

(c) a migratory game bird license;

(d) a Class A-3 deer A tag;

(e) a Class A-5 elk tag;

(f) a Class AAA combination sports license that does not include a Class A-6 black bear tag. This subsection (2)(f) does not prohibit a resident minor from purchasing any individual licenses for which the minor may be eligible under this chapter if the minor does not purchase a Class AAA license under this subsection (2)(f). A resident minor who lawfully purchases a Class AAA license pursuant to this subsection (2)(f) at 17 years of age, but who reaches 18 years of age during that license year, may legally use the license during that license year.

(3) A nonresident minor who is 12 years of age or older and under ~~16~~ *18* years of age may ~~hunt upland game and migratory game birds during the open season with the purchase of a Class B-1 nonresident upland game bird license for a cost of $35~~ *purchase an upland game bird license and a migratory game bird license for one-half of the nonresident fee*. Of ~~that~~ *the* fee *paid for the upland game bird license*, $17 must be deposited pursuant to 87-1-270 and $7 must be deposited pursuant to 87-1-246.

~~(2) A resident, as defined by 87-2-102, who is 12 years of age or older and under 15 years of age may purchase a Class A-3 deer A tag for $6.50 and a Class A-5 elk tag for $8.~~

~~(3) (a) A resident who is 12 years of age or older and under 18 years of age may purchase a youth combination sports license for $25. A resident who is 12 years of age or older and under 18 years of age and who applies for any hunting license for the first time is entitled to receive a youth combination sports license free of charge.~~

~~(b) The youth combination sports license includes:~~

~~(i) a conservation license;~~

~~(ii) a fishing license;~~

~~(iii) an upland game bird license;~~

~~(iv) an elk license; and~~

~~(v) a deer license.~~

~~(c) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A fishing license for $8.~~

~~(d) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A-1 upland game bird license for $3.~~

~~(e) A person who lawfully purchases or is granted a free youth combination sports license at 17 years of age, but who reaches 18 years of age during that license year, may legally use the license during that license year. A person who hunts or fishes using a youth combination sports license purchased or granted free after the person reaches 18 years of age is guilty of a misdemeanor and shall be subject to any of the following penalties by the sentencing court:~~

~~(i) revocation of the person's hunting and fishing privileges for at least 5 years, revocation of the person's hunting and fishing privileges for more than 5 years, or revocation of the person's hunting and fishing privileges for life; and~~

~~(ii) a monetary fine of not less than $500 and not more than $5,000 in addition to the fine imposed on a person under this chapter for the specific hunting or fishing violation.~~

~~(f) This section does not prohibit a resident minor from purchasing any individual licenses for which the minor may be eligible under this chapter if the minor does not purchase the youth combination sports license.~~

(4) (a) The department may issue a free resident or nonresident big game combination license, as applicable, or a free resident or nonresident antelope license and wildlife conservation license, as applicable, to a resident or nonresident youth under 18 years of age who has been diagnosed with a life-threatening illness. In order for a youth to qualify for the free license, the department must receive documentation that the youth has been diagnosed with a life-threatening illness from a licensed physician. The free license may be issued to a youth on a one-time basis for only one hunting season. As used in this subsection, "life-threatening illness" means any progressive, degenerative, or malignant disease or condition that results in a significant threat, likelihood, or certainty that the child's life expectancy will not extend past the child's 19th birthday unless the course of the disease is interrupted or abated.

(b) In exercising hunting privileges, the youth must be ~~in the company of~~ *accompanied by* an adult in possession of a valid Montana hunting license or of a licensed Montana outfitter and conduct all hunting within the terms and conditions of the license issued.

(c) The department may waive hunter safety and education and bowhunter education requirements in 87-2-105 for a qualified youth under this subsection (4) and, in appropriate circumstances, may also allow the qualified youth to hunt from a vehicle in the manner described in 87-2-803.

(d) The department may limit the number of licenses issued pursuant to this subsection (4) to a total of 25 annually.

(5) Prior to reaching 12 years of age, ~~minors~~ *a minor* who will reach 12 years of age by January 16 of a license year may hunt any game species after August 15 of that license year as long as the minor obtains the necessary license pursuant to this chapter."

Section 32. Section 87-6-301, MCA, is amended to read:

"87-6-301. Hunting, fishing, or trapping without license. (1) Except as provided in 87-2-311 and subsection (2) of this section, a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of

fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department ~~if the person is 16 years of age or older~~.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803~~(4)~~, to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(5) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 33. Section 87-6-403, MCA, is amended to read:

"87-6-403. Unlawful hunting from public highway. (1) Except as provided in 87-2-803~~(4)~~, a person may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(2) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 34. Section 87-6-405, MCA, is amended to read:

"87-6-405. Unlawful use of vehicle while hunting. (1) Except as provided in 87-2-803~~(4)~~, a person may not:

(a) hunt or attempt to hunt any game animal or game bird from any self-propelled or drawn vehicle; or

(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(2) Except as provided in 87-2-803~~(4)~~, a person may not, while hunting a game animal or bird:

(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;

(b) use a motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

(3) The restrictions in subsection (2) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land and not to hunting on federal land unless the federal agency specifically requests or approves state enforcement.

(4) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(5) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 35. Section 87-6-921, MCA, is amended to read:

"87-6-921. Revocation of exception. If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege conferred by 87-2-801 through 87-2-803 *and [sections 36 and 37]* must be revoked for not less than 6 months."

Section 36. Licenses for legion of valor members — purple heart awardees. (1) A resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a wildlife conservation license issued by the department.

(2) A resident, as defined in 87-2-102, awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a wildlife conservation license issued by the department.

(3) A nonresident awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a wildlife conservation license issued by the department during expeditions arranged for the nonresident by a nonprofit organization that uses fishing and hunting as part of the rehabilitation of disabled veterans.

(4) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for license costs associated with the fishing and game bird hunting privileges

granted pursuant to subsections (2) and (3) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

Section 37. Licenses for service members. (1) A veteran or a disabled member of the armed forces who meets the qualifications in 87-2-803(9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of the license fee. Licenses issued to veterans or disabled members of the armed forces under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (2)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a Class A-6 black bear tag, upon payment of the resident base hunting license fee in [section 2], in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (2)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (2)(a) and provides the documentation required in subsection (2)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (2) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(3) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return.

Section 38. Apprentice hunting certificate. (1) A person who is 10 years of age or older and under 18 years of age who has not completed a hunter safety and education course pursuant to 87-2-105 is eligible to apply for an apprentice

hunting certificate that entitles the holder to obtain and use hunting licenses and permits in accordance with this title and the provisions of this section. A person may obtain an apprentice hunting certificate for no more than 2 license years before the person must complete a Montana hunter safety and education course pursuant to 87-2-105.

(2) A person who obtains an apprentice hunting certificate must be in the company of a mentor when hunting and shall conduct all hunting in accordance with this section and within the terms and conditions of the license or permit issued.

(3) To qualify as a mentor who will accompany an apprentice hunter, a person must:

(a) be at least 21 years of age;

(b) be related to the apprentice hunter by blood, adoption, or marriage, be the legal guardian of the apprentice hunter, or be a person designated by a parent or legal guardian as being capable and qualified to assist the apprentice hunter;

(c) have completed a hunter safety and education course pursuant to 87-2-105;

(d) have a current Montana hunting license;

(e) have agreed to accompany and supervise the apprentice hunter and remain within sight of and direct voice contact with the apprentice hunter at all times while in the field; and

(f) confirm that the apprentice hunter possesses the physical and psychological capacity to safely and ethically engage in hunting activities.

(4) Subject to the conditions of this section, the department shall issue an apprentice hunting certificate upon payment of a fee of $5. This fee must be deposited in the state special revenue fund account to the credit of the department for hunter education purposes.

(5) The department shall issue an apprentice hunting certificate that allows an apprentice hunter to be accompanied by multiple mentors.

(6) Except as provided in subsection (7), a person who obtains an apprentice hunting certificate may purchase any unlimited hunting license or permit by any applicable deadline for the fee established pursuant to this chapter, including:

(a) a reduced cost license for which the applicant qualifies. An apprentice hunter who is under 12 years of age is eligible to obtain the unlimited reduced cost licenses available to a person who is 12 years of age.

(b) a wild turkey tag if it is issued in an unlimited number.

(7) A person who obtains an apprentice hunting certificate is not eligible:

(a) to obtain a Class A-2 special bow and arrow license without having completed a bowhunter education course;

(b) to obtain a Class D-3 resident hound training license;

(c) to participate in a drawing with a limited quota;

(d) to obtain a mountain sheep license in any area where the licenses are issued in unlimited numbers; or

(e) to obtain an elk license if the apprentice hunter is under 15 years of age.

(8) An apprentice hunter who violates the terms of this section or a mentor who violates the terms of this section while accompanying an apprentice hunter

is subject to the loss of privileges granted by this section for up to one full license season.

Section 39. Unlawful use of discounted combination sports license by youth. A person who hunts or fishes using a youth combination sports license purchased after the person reaches 18 years of age is guilty of a misdemeanor and is subject to any of the following penalties imposed by the court:

(1) revocation of the person's hunting and fishing privileges for at least 5 years, revocation of the person's hunting and fishing privileges for more than 5 years, or revocation of the person's hunting and fishing privileges for life; and

(2) a fine of not less than $500 and not more than $5,000 in addition to the fine imposed on a person for the specific hunting or fishing violation.

Section 40. Repealer. The following sections of the Montana Code Annotated are repealed:

87-2-515. Class B-15 nonresident elk license.

87-2-809. Resident senior combination license.

Section 41. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1, apply to [section 2].

(3) [Sections 36, 37, and 38] are intended to be codified as an integral part of Title 87, chapter 2, part 8, and the provisions of Title 87, chapter 2, part 8, apply to [sections 36, 37, and 38].

(4) [Section 39] is intended to be codified as an integral part of Title 87, chapter 6, part 3, and the provisions of Title 87, chapter 6, part 3, apply to [section 39].

Section 42. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective March 1, 2016.

(2) [Section 1] is effective July 1, 2015.

(3) [Sections 7, 15, 21, 27, and 38] and this section are effective on passage and approval.

Approved May 8, 2015

CHAPTER NO. 450

[HB 512]

AN ACT ESTABLISHING AN EASTERN MONTANA LABORATORY OF CRIMINALISTICS IN YELLOWSTONE COUNTY; PROVIDING AN APPROPRIATION FOR LEASING OF THE LABORATORY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-3-301, MCA, is amended to read:

"44-3-301. Laboratory of criminalistics. (1) There is a laboratory of criminalistics within the department of justice. The laboratory's purpose is to perform analysis of specimens submitted by all Montana state, county, or city law enforcement officers and all state agencies and referral specimens from other states if accepted by the laboratory director.

(2) The laboratory's functions include analysis of toxicologic and criminalistic specimens which the laboratory director considers within the performance capability of the laboratory.

(3) The laboratory shall establish a Yellowstone County branch. The laboratory director will determine the purposes, duties, and functions of the Yellowstone County branch, but priority is given to the relief of the backlogs of chemistry and toxicology statewide."

Section 2. Appropriations. (1) The department is authorized to spend up to $310,000 of general fund one time only to secure appropriate leased facilities for the biennium for the Yellowstone County branch of the laboratory.

(2) There is appropriated $476,000 from the general fund to the department of justice for the biennium beginning July 1, 2015, to provide for personal services and operating expenses, including training and initial operating expenses, of an eastern Montana branch of the laboratory of criminalistics in Yellowstone County. Unspent funds revert to the general fund.

(3) There is appropriated $724,000 from the general fund one time only to the department of justice for the biennium beginning July 1, 2015, for equipment for the eastern Montana branch of the laboratory of criminalistics in Yellowstone County. Unspent funds revert to the general fund.

Section 3. Effective date. [This act] is effective July 1, 2015.

Approved May 8, 2015

CHAPTER NO. 451

[SB 233]

AN ACT ESTABLISHING REQUIREMENTS FOR MEDICAID-FUNDED DEVELOPMENTAL DISABILITY SERVICES FOR CERTAIN MILITARY DEPENDENTS; AMENDING SECTION 53-20-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Military dependents — eligibility and placement determinations. (1) If a military dependent is eligible for home and community-based developmental disability services while physically present in the state, the department shall reinstate the dependent's eligibility and placement status when the dependent returns to the state if the military service member provides proof acceptable to the department that:

(a) the military service member was on military assignment outside the state, was a legal resident of the state before the military assignment, and maintained residency in the state while on the military assignment;

(b) the military service member and military dependent are physically present in the state and intend to reside permanently in the state while the dependent is receiving services;

(c) the military service member returned to the state within 18 months of separating from military service; and

(d) the military dependent is not eligible for coverage of home and community-based services under another health insurance plan.

(2) (a) Upon the military dependent's return to the state, the department shall reinstate the dependent's eligibility status without a further redetermination of eligibility unless the state's eligibility requirements have changed while the dependent was out of the state.

(b) If the eligibility requirements have changed, the military dependent shall retain eligibility for services until eligibility under the new requirements has been determined.

(3) (a) If the military dependent was on a waiting list for services at the time the dependent left the state due to the military service member's military assignment, the department shall determine the military dependent's place on the waiting list as if the dependent had remained in the state during the time of the military assignment.

(b) If the department finds that the military dependent would be immediately eligible for services upon return to the state, the department shall place the dependent in services as soon as an opening occurs. The department may not remove a person from services in order to place a military dependent in services.

(4) Upon the military dependent's return to the state and when a request for services is made, the department shall notify the dependent of the availability of services and any changes in eligibility requirements. The department shall provide due process through the appeals processes established by the department.

(5) To continue eligibility under this section, the military dependent must inform the department of the dependent's current address and provide updates as requested by the department.

Section 2. Section 53-20-202, MCA, is amended to read:

"53-20-202. Definitions. As used in this part, the following definitions apply:

(1) "Comprehensive developmental disability system" means a system of services, including but not limited to the following basic services, with the intention of providing alternatives to institutionalization:

(a) evaluation services;

(b) diagnostic services;

(c) treatment services;

(d) day-care services;

(e) training services;

(f) education services;

(g) employment services;

(h) recreation services;

(i) personal-care services;

(j) domiciliary-care services;

(k) special living arrangements services;

(l) counseling services;

(m) information and referral services;

(n) follow-along services;

(o) protective and other social and sociolegal services; and

(p) transportation services.

(2) "Department" means the department of public health and human services.

(3) "Developmental disabilities" means disabilities attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability and

requiring treatment similar to that required by intellectually disabled individuals if the disability originated before the person attained age 18, has continued or can be expected to continue indefinitely, and results in the person having a substantial disability.

(4) "Developmental disabilities facility" means any service or group of services offering care to persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other programmatic basis.

(5) "Legal resident" means a person who maintains Montana as the person's principal establishment, home of record, or permanent home and where, whenever absent due to military obligation, the person intends to return.

(6) "Military dependent" means a child of a military service member.

(7) "Military service" means service in the armed forces or armed forces reserves or membership in the Montana national guard.

(8) "Military service member" means a person who is currently in military service or who has separated from military service in the previous 18 months either through retirement or military separation."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 20, part 2, and the provisions of Title 53, chapter 20, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2015

CHAPTER NO. 452

[SB 283]

AN ACT GENERALLY REVISING LEGISLATOR CONSTITUENT ACCOUNT LAWS; PROVIDING FOR A STIPEND AND ALLOWING FOR REIMBURSEMENT OF CONSTITUENT SERVICES EXPENSES NOT PAID FROM A CONSTITUENT SERVICES ACCOUNT OR OTHERWISE REIMBURSED; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Constituent services stipend and reimbursement. (1) Each legislator is entitled to a stipend of $3,000 in a biennium for providing constituent services, which include but are not limited to unreimbursed expenses for mileage, per diem, or lodging as well as communication and information technology, such as expenses for telecommunications or internet, computer hardware and software, postage, and education-related expenses to represent constituents.

(2) Subject to subsections (4) and (5), legislators are allowed reimbursement of up to the amount provided for in subsection (3) in a biennium for otherwise unreimbursed expenses related to the legislator's expenses for mileage, meals, or lodging at rates provided for in 2-18-501 through 2-18-503 incurred for providing constituent services.

(3) The amount authorized under subsection (2) is:

(a) $1,000 if the legislator's district is at least 100 square miles but less than 1,000 square miles;

(b) $2,000 if the legislator's district is at least 1,000 square miles but less than 5,000 square miles;

(c) $3,000 if the legislator's district is at least 5,000 square miles but less than 7,500 square miles; or

(d) $4,000 if the legislator's district is 7,500 square miles or more.

(4) For expenses authorized under subsection (2), a legislator shall apply for reimbursement to the legislative services division by submitting written documentation that satisfies applicable requirements of Title 2, chapter 18, part 5.

(5) Legislators may not be reimbursed for expenses paid from a constituent services account provided for in 13-37-402.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 2, part 2, and the provisions of Title 5, chapter 2, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2015

CHAPTER NO. 453

[SB 336]

AN ACT GENERALLY REVISING RULEMAKING PROCEDURES; REQUIRING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INCLUDE CERTAIN INFORMATION IN RULEMAKING NOTICES PERTAINING TO THE DELIVERY OF MEDICAID SERVICES; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PREPARE AND ELECTRONICALLY SEND A STATEMENT OF FINDINGS TO INTERESTED PERSONS CONCERNING THE RULE'S INTENDED OUTCOMES WITHIN A YEAR AFTER THE RULE'S EFFECTIVE DATE IF THE RULE PERTAINS TO THE DELIVERY OF MEDICAID SERVICES; PROVIDING EXCEPTIONS; AMENDING PAYMENTS THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES IS ENTITLED TO COLLECT FROM CERTAIN PROVIDERS; AMENDING SECTION 53-6-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Performance-based rulemaking — privacy exemption. (1) Except for rules implementing rate increases or implementing federal law or regulation, the notice of a proposed rule concerning the delivery of medicaid services by the department of public health and human services must include, in addition to the other requirements under this chapter:

(a) a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if such an assessment can be made, the method the department of public health and human services will use to measure whether or not the principal reasons and the rationale for the intended action of the rule, as provided by 2-4-305(6)(b), are successfully achieved, including any data collection methods or metrics if applicable; and

(b) the period over which the intended outcomes will be measured, including any measurement intervals, if applicable.

(2) (a) No later than 1 year after the effective date of the rule subject to subsection (1), the department of public health and human services shall prepare a concise statement of findings evaluating whether, using the data collection or metric identified in the rule proposal, the data collected after the

rule's effective date indicated that the rule successfully achieved its intended outcomes. The department of public health and human services shall post the statement of findings on its website.

(b) The department of public health and human services is not under an obligation to report on any other variables that may have impacted the results of the data collection methods or metrics.

(3) The department of public health and human services is exempted from the reporting requirements of subsection (2)(a) to the extent that the requirements would require the publication of confidential information.

(4) The department of public health and human services may only use existing resources to fulfill the mandates of this section.

Section 2. Section 53-6-111, MCA, is amended to read:

"53-6-111. Department charged with administration and supervision of medical assistance program — overpayment recovery — sanctions for fraudulent and abusive activities — adoption of rules. (1) The department of public health and human services may administer and supervise a vendor payment program of medical assistance under the powers, duties, and functions provided in Title 53, chapter 2, and this chapter and that is in compliance with Title XIX of the Social Security Act.

(2) (a) The department is entitled to collect from a provider, and a provider is liable to the department for:

(i) the amount of a payment under this part to which the provider was not entitled~~, regardless of whether the incorrect payment was the result of department or provider error or other cause~~ *if the incorrect payment was the result of the provider's error or if the provider's interpretation of the pertinent rule or billing code is not reasonable*; and

(ii) the portion of any interim rate payment that exceeds the rate determined retrospectively by the department for the rate period.

(b) If the decision regarding the amount of a payment to which the provider was not entitled depends on an interpretation of a pertinent rule or billing code, the provider has the burden of proving that its interpretation is reasonable and consistent with:

(i) the information given to providers in any applicable Montana medicaid provider rules or manual, including but not limited to the Coding Resources identified in or incorporated by reference in any applicable Montana medicaid provider rule or manual; and

(ii) any written interpretations by the department that were in existence at the time payment was made to the provider.

~~(b)~~*(c)* In addition to the amount of overpayment recoverable under subsection (2)(a), the department is entitled to interest on the amount of the overpayment at the rate specified in 31-1-106 from the date 30 days after the date of mailing of notice of the overpayment by the department to the provider, except that interest accrues from the date of the incorrect payment when the payment was obtained by fraud or abuse.

~~(c)~~*(d)* The department may collect any amount described in subsection (2)(a) by:

(i) withholding current payments to offset the amount due;

(ii) applying methods and using a schedule mutually agreeable to the department and the provider; or

(iii) any other legal means.

~~(d)~~*(e)* The department may suspend payments to a provider for disputed items pending resolution of a dispute.

~~(e)~~*(f)* The fact that a provider may have ceased providing services or items under the medical assistance program, may no longer be in business, or may no longer operate a facility, practice, or business does not excuse repayment under this subsection (2).

(3) The department shall adopt rules establishing a system of sanctions applicable to providers who engage in fraud and abuse. Subject to the definitions in 53-6-155, the department rules must include but are not limited to specifications regarding the activities and conduct that constitute fraud and abuse.

(4) Subject to subsections (5) and (6), the sanctions imposed under rules adopted by the department under subsection (3) may include but are not limited to:

(a) required courses of education in the rules governing the medicaid program;

(b) suspension of participation in the program for a specified period of time;

(c) permanent termination of participation in the medical assistance program; and

(d) imposition of civil monetary penalties imposed under rules that specify the amount of penalties applicable to a specific activity, act, or omission involving intentional or knowing violation of specified standards.

(5) In all cases in which the department may recover medicaid payments or impose a sanction, a provider is entitled to a hearing under the provisions of Title 2, chapter 4, part 6. This section does not require that the hearing under Title 2, chapter 4, part 6, be granted prior to recovery of overpayment.

(6) The remedies provided by this section are separate and cumulative to any other administrative, civil, or criminal remedies available under state or federal law, regulation, rule, or policy."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 4, and the provisions of Title 2, chapter 4, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2015.

Section 5. Applicability. [Section 1] applies to rule notices published by the department of public health and human services on or after [the effective date of this act].

Approved May 8, 2015

CHAPTER NO. 454

[SB 385]

AN ACT GENERALLY REVISING LAWS RELATED TO LANDLORDS AND TENANTS; REQUIRING THAT A COURT ISSUE A WRIT OF POSSESSION IF A LANDLORD'S CLAIM FOR POSSESSION IS GRANTED IN CERTAIN ACTIONS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 70-24-103, 70-24-427, 70-33-103, AND 70-33-427, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-24-103, MCA, is amended to read:

"70-24-103. General definitions. Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, *small claims court,* justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile home, means the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Guest" means a person staying with a tenant for a temporary period of time as defined in the rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the tenant has received the landlord's written consent to a longer period of time.

~~(6)~~*(7)* "Landlord" means:

(a) the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part; or

(b) a manager of the premises who fails to disclose the managerial position.

~~(7)~~*(8)* "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

~~(8)~~*(9)* "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

~~(9)~~*(10)* "Person" includes an individual or organization.

~~(10)~~*(11)* "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

~~(11)~~*(12)* "Rent" means all payments to be made to the landlord under the rental agreement.

~~(12)~~*(13)* "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

~~(13)~~*(14)* "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink,

all of which are provided by the landlord and one or more of which are used in common by occupants in the structure.

~~(14)~~*(15)* "Single-family residence" means a structure maintained and used as a single dwelling unit. A dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or service with another dwelling unit.

~~(15)~~*(16)* "Tenant" means*:*

(a) a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others*; or*

(b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.

(17) "Unauthorized person" means a person, other than a tenant or a guest, who is trespassing in violation of 45-6-203."

Section 2. Section 70-24-427, MCA, is amended to read:

"70-24-427. Landlord's remedies after termination — action for possession. (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

(2) An action filed pursuant to subsection (1) in a court must be heard within 14 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district court, the hearing must be held within 14 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is transmitted to the district court.

(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing. *If a landlord's claim for possession is granted, the court shall issue a writ of possession.*"

Section 3. Section 70-33-103, MCA, is amended to read:

"70-33-103. Definitions. Unless the context clearly requires otherwise, in this chapter, the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including electricity, gas, running water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, *small claims court,* justice's court, or city court.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means:

(a) the owner, lessor, or sublessor of:

(i) space or land, including a lot, that is rented to a tenant for a mobile home; or

(ii) a mobile home park; or

(b) a manager of the premises who fails to disclose the managerial position.

(6) "Lot" means the space or land rented and not a mobile home itself.

(7) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured homes as defined in 15-1-101.

(8) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to occupy a lot.

(9) "Mobile home park" means a trailer court as defined in 50-52-101.

(10) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(11) "Person" includes an individual or organization.

(12) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(13) "Rent" means all payments to be made to a landlord under a rental agreement.

(14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-33-311 embodying the terms and conditions concerning the use and occupancy of the premises.

(15) "Tenant" means*:*

(a) a person entitled under a rental agreement to occupy a lot to the exclusion of others*; or*

(b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement."

Section 4. Section 70-33-427, MCA, is amended to read:

"70-33-427. Landlord's remedies after termination — action for possession. (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

(2) (a) An action filed pursuant to subsection (1) in a court must be heard within 20 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-33-321(4), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons.

(b) If the action is appealed to the district court, the hearing must be held within 20 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-33-321(4), the hearing must be held within 5 business days after the case is transmitted to the district court.

(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing. *If a landlord's claim for possession is granted, the court shall issue a writ of possession.*"

Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 8, 2015

CHAPTER NO. 455

[SB 389]

AN ACT PROVIDING DEFINITIONS FOR "EPHEMERAL STREAM" AND "INTERMITTENT STREAM"; AMENDING THE DEFINITION OF "PERENNIAL FLOWING STREAM"; CLARIFYING THAT A WATER RIGHTS PERMIT IS NOT NEEDED FOR CONSTRUCTING A STOCK POND WITH AN APPROPRIATION FROM AN EPHEMERAL OR INTERMITTENT STREAM; AND AMENDING SECTIONS 85-2-306 AND 85-2-355, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-306, MCA, is amended to read:

"85-2-306. Exceptions to permit requirements. (1) (a) Except as provided in subsection (1)(b), ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works.

(b) If another person has rights in the ground water development works, water may be appropriated with the written consent of the person with those property rights or, if the ground water development works are on national forest system lands, with any prior written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the certificate.

(c) If the person does not have a possessory interest in the real property from which the ground water may be appropriated, the person shall provide to the owner of the real property written notification of the works and the person's intent to appropriate ground water from the works. The written notification must be provided to the landowner at least 30 days prior to constructing any associated works or, if no new or expanded works are proposed, 30 days prior to appropriating the water. The written notification under this subsection is a notice requirement only and does not create an easement in or over the real property where the ground water development works are located.

(2) Inside the boundaries of a controlled ground water area, ground water may be appropriated only:

(a) according to a permit received pursuant to 85-2-508; or

(b) according to the requirements of a rule promulgated pursuant to 85-2-506.

(3) (a) Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring:

(i) when the appropriation is made by a local governmental fire agency organized under Title 7, chapter 33, and the appropriation is used only for emergency fire protection, which may include enclosed storage;

(ii) when a maximum appropriation of 350 gallons a minute or less is used in nonconsumptive geothermal heating or cooling exchange applications, all of the water extracted is returned without delay to the same source aquifer, and the distance between the extraction well and both the nearest existing well and the hydraulically connected surface waters is more than twice the distance between the extraction well and the injection well;

(iii) when the appropriation is outside a stream depletion zone, is 35 gallons a minute or less, and does not exceed 10 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding 10 acre-feet, regardless of the flow rate, requires a permit; or

(iv) when the appropriation is within a stream depletion zone, is 20 gallons a minute or less, and does not exceed 2 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding this limitation requires a permit.

(b) (i) Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department through its offices.

(ii) Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iii) If a notice is not corrected and completed within the time allowed, the priority date of appropriation is the date of refiling a correct and complete notice with the department.

(c) A certificate of water right may not be issued until a correct and complete notice has been filed with the department, including proof of landowner notification or a written federal special use authorization as necessary under subsection (1). The original of the certificate must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(4) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (3), with the department to perfect the water right. The filing of a claim pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation is the date of the filing of a notice, as provided in subsection (3), or the date of the filing of the claim of existing water right.

(5) An appropriation under subsection (4) is an existing right, and a permit is not required. However, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of 35 gallons a minute or less, not to exceed 10 acre-feet a year, the department shall issue a certificate of water right. If a certificate is issued under

this section, a certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(6) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if:

(a) the maximum capacity of the impoundment or pit is less than 15 acre-feet;

(b) the appropriation is less than 30 acre-feet a year;

(c) the appropriation is from *an ephemeral stream, an intermittent stream, or* ~~a~~ *another* source other than a perennial flowing stream; and

(d) the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger.

(7) (a) Within 60 days after constructing an impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. Subject to subsection (7)(b), upon receipt of a correct and complete application for a stock water provisional permit, the department shall automatically issue a provisional permit. If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(b) If the impoundment or pit is on national forest system lands, an application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(8) A person may also appropriate water without applying for or prior to receiving a permit under rules adopted by the department under 85-2-113."

Section 2. Section 85-2-355, MCA, is amended to read:

"85-2-355. ~~Definition~~ *Definitions.* As used in ~~this part~~ *85-2-306, the following definitions apply:*

~~"perennial flowing stream" means a stream that historically has flowed continuously during all seasons of the year, during dry as well as wet years.~~

(1) "Ephemeral stream" means a watercourse that has a channel and that carries water only during and shortly after precipitation or snow melt events.

(2) "Intermittent stream" means a nonperennial flowing stream that has a channel and that annually carries water but is dry for part of the year in most years.

(3) "Perennial flowing stream" means a stream that has flowed continuously during all seasons during dry as well as wet years, except when the flow is interrupted by diversions."

Approved May 8, 2015

CHAPTER NO. 456

[SB 396]

AN ACT GENERALLY REVISING MOTOR CARRIER LAWS; ELIMINATING THE REQUIREMENT THAT CERTAIN MOTOR CARRIERS DEMONSTRATE PUBLIC CONVENIENCE AND NECESSITY TO ACQUIRE A CERTIFICATE FROM THE PUBLIC SERVICE COMMISSION; CREATING A CLASS E CLASSIFICATION FOR MOTOR CARRIERS THAT OFFER TRANSPORTATION NETWORK CARRIER SERVICES; PROVIDING FOR A FEE; PROVIDING OPERATING REQUIREMENTS FOR CLASS E MOTOR CARRIERS; PROVIDING A TRANSITION FOR MOTOR CARRIERS OPERATING WITH A CERTIFICATE; PROVIDING FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK CARRIERS; REQUIRING TRANSPORTATION NETWORK CARRIERS TO PROVIDE DISCLOSURES; PROVIDING INSURANCE REQUIREMENTS; PROHIBITING LOCAL GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING TRANSPORTATION NETWORK CARRIER SERVICES; CLARIFYING EXEMPTIONS; AMENDING SECTIONS 7-1-111, 69-12-101, 69-12-102, 69-12-205, 69-12-210, 69-12-301, 69-12-311, 69-12-312, 69-12-313, 69-12-314, 69-12-321, 69-12-323, 69-12-324, 69-12-404, 69-12-406, 69-12-407, 69-12-415, AND 69-12-501, MCA; REPEALING SECTION 69-12-328, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Class E motor carrier certificate of compliance. (1) A Class E motor carrier may not transport persons on a public highway in this state without obtaining, pursuant to this chapter, a certificate of compliance.

(2) A Class E motor carrier shall apply for a certificate of compliance in writing. The application must be verified by the applicant and specify the following:

(a) the name and address of the applicant and its officers, if any;

(b) the locality and character of operations to be conducted;

(c) a detailed statement showing the assets and liabilities of the applicant;

(d) a detailed statement that the applicant complies or, once certificated, will comply with the requirements of 69-12-323(5);

(e) other information required by the commission.

(3) A transportation network carrier may apply for a Class E certificate of compliance on behalf of the transportation network carrier drivers who register with the transportation network carrier to use its software or digital network to offer transportation network carrier services.

(4) The application must be accompanied by a filing fee to be set by rule of the commission.

(5) Notwithstanding subsection (3), a transportation network carrier does not own, control, operate, or manage the vehicles used by transportation network carrier drivers and is not a taxicab association or a for-hire vehicle owner.

Section 2. Fare charged for transportation network carrier services. (1) (a) A Class E motor carrier may charge a fare for the services provided to passengers in accordance with this section.

(b) If a fare is charged, the motor carrier shall:

(i) disclose to passengers the fare calculation method on its website or within the software application service; and

(ii) provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the transportation network carrier driver's vehicle.

(2) Within a reasonable period of time following the completion of a trip, a Class E motor carrier shall transmit to the passenger an electronic receipt that includes:

(a) the origin and destination of the trip;

(b) the total time and distance of the trip; and

(c) an itemization of the total fare paid.

Section 3. Authority. (1) Notwithstanding any other provision of law, transportation network carrier services are exclusively governed by this chapter and rules promulgated by the commission consistent with this chapter.

(2) A local government as defined in 2-2-102 may not impose a tax or fee on, require a license for, or impose any other operational requirements on transportation network carrier services.

Section 4. Insurance requirements of transportation network carriers. A transportation network carrier driver or transportation network carrier on the driver's behalf shall maintain primary motor vehicle liability insurance on the driver's personal vehicle that meets the following requirements:

(1) The insurance policy recognizes that the driver is a transportation network carrier driver or otherwise uses a personal vehicle to transport riders for compensation and covers the driver:

(a) while the driver is logged on to the transportation network carrier's digital network; or

(b) while the driver is engaged in a prearranged ride.

(2) (a) While a participating transportation network carrier driver is logged on to the transportation network carrier's digital network and is available to receive transportation requests but is not engaged in a prearranged ride, the motor vehicle liability insurance policy must provide:

(i) primary motor vehicle liability insurance in the amount of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage; and

(ii) uninsured motorist coverage when required by 33-23-201.

(b) The coverage requirements of subsection (2)(a) may be satisfied by any of the following:

(i) motor vehicle liability insurance maintained by the transportation network carrier driver;

(ii) motor vehicle liability insurance maintained by the transportation network carrier; or

(iii) any combination of subsections (2)(b)(i) and (2)(b)(ii).

(3) (a) While a transportation network carrier driver is engaged in a prearranged ride, the motor vehicle liability insurance policy must provide:

(i) primary motor vehicle liability insurance that provides at least $1,000,000 for death, bodily injury, and property damage; and

(ii) uninsured motorist coverage when required by 33-23-201.

(b) The coverage requirements of subsection (3)(a) may be satisfied by any of the following:

(i) motor vehicle liability insurance maintained by the transportation network carrier driver on the driver's personal vehicle;

(ii) motor vehicle liability insurance maintained by the transportation network carrier on the driver's personal vehicle; or

(iii) any combination of subsections (3)(b)(i) and (3)(b)(ii).

(4) If insurance maintained by the driver in subsections (2) or (3) has lapsed or does not provide the required limits of coverage, insurance maintained by a transportation network carrier must provide the coverage required by this section beginning with the first dollar of a claim and have the duty to defend such claim.

(5) Coverage under a motor vehicle liability insurance policy maintained by the transportation network carrier may not be dependent on a driver's personal motor vehicle liability insurer first denying a claim and a driver's personal motor vehicle liability insurance policy insurer may not be required to first deny a claim.

(6) Insurance required by this section may be placed with an insurer authorized under Title 33, including a surplus lines insurer.

(7) Insurance satisfying the requirements of this section satisfies mandatory insurance requirements in Title 61, chapter 6.

(8) A transportation network carrier driver shall carry proof of coverage satisfying subsections (2) and (3) at all times during the use of a personal vehicle in connection with a transportation network carrier's digital network. In the event of an accident, a transportation network carrier driver shall provide insurance coverage information to the directly interested parties, motor vehicle liability insurers, and investigating police officers upon request. Upon such request, a transportation network carrier driver shall also disclose to directly interested parties, motor vehicle liability insurers, and investigating police officers whether the driver was logged on to the transportation network carrier's digital network or engaged in a prearranged ride at the time of an accident.

Section 5. Disclosures. A transportation network carrier shall disclose in writing to a transportation network carrier driver the following before the driver is allowed to accept a request for a prearranged ride on the transportation network carrier's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network carrier provides while the transportation network carrier driver uses a personal vehicle in connection with a transportation network carrier's digital network; and

(2) that the transportation network carrier driver's own motor vehicle liability insurance policy might not provide any liability or optional coverages while the driver is logged on to the transportation network carrier's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Section 6. Motor vehicle liability insurance provisions. (1) Insurers that write motor vehicle liability insurance in Montana may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a driver is logged on to a transportation network carrier's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in a motor vehicle liability insurance policy, including, but not limited to:

(a) liability coverage for bodily injury and property damage including insurance required under Title 61, chapter 6;

(b) personal injury protection coverage;

(c) uninsured and underinsured motorist coverage, including insurance provided under 33-23-201;

(d) medical payments coverage;

(e) comprehensive physical damage coverage; and

(f) collision physical damage coverage.

(2) Nothing in this section requires that a personal motor vehicle liability insurance policy provide coverage while the driver is logged on to the transportation network carrier's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a personal vehicle to transport riders for compensation. An insurer may provide coverage for the transportation network carrier driver's personal vehicle, if it chooses to do so by contract or endorsement.

(3) A motor vehicle liability insurer that excludes the coverage described in [section 4] has no duty to defend or indemnify any claim expressly excluded. [Sections 4 through 6] do not invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use prior to the enactment of [sections 4 through 6]. A motor vehicle liability insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its motor vehicle liability policy has a right of contribution against other insurers that provide motor vehicle liability insurance to the same driver in satisfaction of the coverage requirements of [section 4] at the time of loss.

(4) In a claims coverage investigation, transportation network carriers and any insurer potentially providing liability or optional coverages under [section 4] shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network carrier driver, if applicable, including the precise times that a transportation network carrier driver logged on and off the transportation network carrier's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions, and limits provided under any motor vehicle liability insurance maintained under [section 4].

(5) Nothing in this chapter limits the right of a lender or secured party on a driver's vehicle to require a driver to maintain comprehensive and collision damage coverage for a driver's vehicle or to show evidence of that coverage to the lender or secured party that would cover the period when the driver is logged on to the transportation network carrier's digital network regardless of whether the driver is engaged in a prearranged ride. If the driver fails to maintain the required comprehensive and collision coverage or to show evidence to the lender or secured party of the coverage upon reasonable request by the lender or secured party, the lender or secured party may obtain the coverage at the expense of the driver and is not required to provide disclosure under [section 5].

(6) If a lender or a secured party has a secured interest in a driver's vehicle and a transportation network carrier's insurer makes a payment for a claim for damage to the driver's vehicle that is covered under comprehensive or collision damage coverage held by the transportation network carrier, the insurer shall issue the payment directly to the vehicle repair shop or jointly to the owner of the vehicle and the primary lender or secured party on the covered vehicle.

Section 7. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective bargaining for public employees, unemployment compensation, or workers' compensation), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate *of compliance or a certificate* of public convenience and necessity *pursuant to Title 69, chapter 12*;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of $500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and

application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities;

(16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States."

Section 8. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means ~~the~~ *a* certificate of public convenience and necessity *or a certificate of compliance* issued under this chapter.

(3) "Certificate of compliance" means written authorization to operate issued by the commission for Class A, Class B, or Class E motor carriers that transport passengers declaring that the motor carrier meets the fitness requirements of this chapter.

(4) "Certificate of public convenience and necessity" means a written authorization to operate issued by the commission for Class A and Class B motor carriers that transport property or persons and property, Class C motor carriers, and Class D motor carriers declaring that the motor carrier service is required by the public convenience and necessity, as provided in this chapter.

~~(3)~~*(5)* "Charter service" means a service used for the transportation of passengers by a motor carrier with rates not subject to approval by the commission if:

(a) the transportation of passengers is based on a single contract;

(b) the contract is entered into in advance of the transportation and does not result from a spontaneous, curbside agreement;

(c) the contract includes a single fixed charge and fares are not assessed per passenger;

(d) the passenger or group of passengers acquires exclusive use of the motor vehicle through the contract; and

(e) when applied to a group of passengers being transported, the group of passengers travels together to a specified destination.

~~(4)~~*(6)* "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

~~(5)~~*(7)* "Corporation" means a corporation, company, association, or joint-stock association.

(8) "Digital network" means any online-enabled application, software, website, or system offered or utilized by a transportation network carrier that enables the prearrangement of rides with transportation network carrier drivers.

~~(6)~~*(9)* "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

~~(7)~~*(10)* "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed disposal well. The term does not include wastewater and waste tires.

~~(8)~~*(11)* "Household goods" means any of the following:

(a) personal effects and property used or to be used in a dwelling when they are a part of the equipment or supply of the dwelling. The term does not include property moving from a factory or store unless the property is purchased by a householder for use in a dwelling and is transported at the request of the householder.

(b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment or a portion of the establishment from one location to another.

(c) articles, including objects of art, displays, and exhibitions that because of their unusual nature or value, require the specialized handling and equipment usually employed in moving household goods and other similar articles.

~~(9)~~*(12)* "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. *A motor carrier includes a transportation network carrier.*

~~(10)~~*(13)* "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(11)~~*(14)* "Person" means an individual, firm, or partnership.

(15) "Personal vehicle" means a vehicle that is used by a transportation network carrier driver in connection with providing a prearranged ride and is:

(a) owned, leased, or otherwise authorized for use by the transportation network carrier driver; and

(b) not a taxicab, limousine, or for-hire vehicle.

(16) "Prearranged ride" means transportation provided by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network carrier, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a taxicab, limousine, or other for-hire vehicle pursuant to Title 69, chapter 12.

~~(12)~~*(17)* "Public highway" means a public street, road, highway, or way in this state.

~~(13)~~*(18)* "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(14)~~*(19)* "Recyclable" means any material diverted from the solid waste stream that can be reused in the production of heat or energy or as raw material for new products and for which markets exist.

(20) "Transportation network carrier" means an entity that uses a digital network or software application service to connect passengers to transportation network carrier services provided by transportation network carrier drivers. A transportation network carrier shall not be deemed to control, direct, or manage the personal vehicles or transportation network carrier drivers that connect to its digital network, except where agreed to by written contract.

(21) "Transportation network carrier driver" or "driver" means an individual who:

(a) receives connections to potential riders and related services from a transportation network carrier in exchange for payment of a fee to the transportation network carrier; and

(b) uses a personal vehicle to provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network carrier in return for compensation or payment of a fee.

(22) "Transportation network carrier rider" or "rider" means an individual or persons who use a transportation network carrier's digital network to connect with a transportation network carrier driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(23) "Transportation network carrier services" means the transportation of a passenger between points chosen by the passenger and prearranged with a transportation network carrier driver through the use of a transportation network carrier digital network or software application."

Section 9. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter — exemptions. (1) This chapter does not affect:

(a) the operation of school buses that are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities that are sponsored or supervised by school authorities;

(b) the transportation by means of motor vehicles in the regular course of business of employees by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees in construction and production is concerned;

(c) the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village with a population of less than 500 persons, as determined by the commission;

(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(f) ambulances;

(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2;

(ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or

(iii) any public transportation system recognized by the Montana department of transportation as a federal transit administration provider pursuant to 49 U.S.C. 5311;

(i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual value requiring special handling and security;

(j) the transportation of household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government;

(k) the transportation of persons provided by private, nonprofit organizations, including those recognized by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C. 5310. As used in this subsection (1)(k), "private, nonprofit organizations" means organizations recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(l) the transportation of a group of passengers ~~by charter service~~ if:

(i) the motor vehicle used for the transportation of the passengers is designed to carry more than 26 passengers; and

(ii) the motor carrier has obtained a USDOT number from the U.S. department of transportation as provided in 49 CFR 390.19; or

(m) the transportation of a group of employees to or from a worksite by a motor carrier under contract with the employer for a period of time of at least 1 year.

(2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles.

(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 10. Section 69-12-205, MCA, is amended to read:

"69-12-205. Rules to reflect differences between carrier classes. ~~All rules in relation~~ *(1) Except as provided in subsection (3), rules related* to schedules, service, tariffs, rates, facilities, accounts, and reports must ~~have due regard for~~ *recognize* the differences ~~existing~~ between *types of* Class A, Class B, Class C, ~~and~~ Class D*, and Class E* motor carriers, as defined in this chapter, and must be just, fair, and reasonable to the classes *and types* of motor carriers in ~~their relations~~ *relation* to each other and to the public.

(2) (a) In ~~fixing~~ *establishing* the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of persons ~~or property, or both~~, the commission shall take into consideration the kind and character of service to be performed~~, the public necessity of the service, and the effect of the tariff and rates upon other transportation agencies, if any, and shall, as far as possible,~~

avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier.

(b) In establishing the tariff or rates to be charged by Class A and Class B motor carriers for the carrying of property or persons and property, the commission shall take into consideration the public necessity of the service, the kind and character of service to be performed, and the effect of the tariff and rates on other transportation agencies, if any. The commission shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier.

(3) Except as provided in [section 2], a Class E motor carrier is not subject to commission rules related to schedules, tariffs, or rates."

Section 11. Section 69-12-210, MCA, is amended to read:

"69-12-210. Complaints. (1) The commission ~~has jurisdiction to~~ *may* conduct investigations and hear complaints to determine whether a motor carrier has violated any of the commission's rules or orders or any provision of this chapter.

(2) Following an opportunity for hearing and upon a finding that a motor carrier has violated any of the commission's rules or orders or any provision of this chapter, the commission may suspend or revoke the motor carrier's certificate ~~of operating authority~~ or impose any penalty provided for under 69-12-108."

Section 12. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are divided into ~~four~~ *five* classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; ~~and~~

(d) Class D motor carriers*; and*

(e) Class E motor carriers.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage.

(6) Class E motor carriers include all transportation network carriers."

Section 13. Section 69-12-311, MCA, is amended to read:

"69-12-311. Class A motor carrier certificate. (1) *(a)* A Class A motor carrier may not transport persons~~, property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter, a certificate *of compliance* ~~declaring that public convenience and necessity require the operation~~.

(b) A Class A motor carrier may not transport property or persons and property for hire on any public highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

(2) A *Class A* motor carrier shall apply for a certificate, in writing, separately for each route. The application must be verified by the applicant and specify the following:

(a) the name and address of the applicant and its officers, if any;

(b) the public highway or highways and the fixed termini between the regular route or routes where the applicant intends to operate;

(c) a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity;

(d) the proposed time schedule;

(e) a proposed schedule of the tariff or rates to be charged;

(f) a complete and detailed description of the property proposed to be devoted to the public service;

(g) a detailed statement showing the assets and liabilities of the applicant; and

(h) other information required by the commission.

(3) The application must be accompanied by a filing fee to be set by rule of the commission."

Section 14. Section 69-12-312, MCA, is amended to read:

"69-12-312. Class B motor carrier certificate. (1) *(a)* A Class B motor carrier may not transport persons~~, property, or both~~ for hire on any public highway in this state without obtaining, pursuant to this chapter, a certificate *of compliance* ~~declaring that public convenience and necessity require the operation~~.

(b) A Class B motor carrier may not transport property or persons and property for hire on any public highway in this state without obtaining, pursuant to this chapter, a certificate of public convenience and necessity.

(2) A *Class B* motor carrier shall apply for a certificate in writing, separately for each locality under consideration. The application must be verified by the applicant and specify the following:

(a) the name and address of the applicant and its officers, if any;

(b) the kind of transportation, whether passenger, household goods, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in household goods traffic;

(c) the locality and character of operations to be conducted;

(d) a proposed schedule of the tariff or rates to be charged for the transportation of passengers, household goods, or both;

(e) a complete and detailed description of the property proposed to be devoted to the public service;

(f) a detailed statement showing the assets and liabilities of the applicant; and

(g) other information required by the commission.

(3) The application must be accompanied by a filing fee to be set by rule of the commission."

Section 15. Section 69-12-313, MCA, is amended to read:

"69-12-313. Class C motor carrier certificate *of public necessity*. (1) ~~No~~ *A* Class C motor carrier, except ~~any~~ *a* Class C motor carrier operating pursuant to the terms and conditions of a contract as provided in 69-12-324, ~~shall~~ *may not* operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities or for the transportation of persons on any public highway in this state without ~~first having obtained from the commission,~~ *obtaining a certificate of public convenience and necessity* under the provisions of this chapter~~, a certificate that public convenience and necessity require such operation~~.

(2) A *Class C* motor carrier ~~making application for such permit~~ shall ~~do so~~ *apply for a certificate of public convenience and necessity* in writing~~,~~ separately for each route or locality. ~~for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:~~ *The application must be verified by the applicant and include:*

(a) the name and address of the applicant and ~~the names and addresses of~~ its officers, if any;

(b) the public highways or highways over which and the fixed termini between which or the route or routes over which ~~it~~ *the applicant* intends to operate, if the ~~same~~ *routes* are fixed, or the particular city, town, station, or locality from ~~and/or~~ *or* to which*, or both,* the applicant intends to operate;

(c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be distributed, delivered, or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of ~~such~~ *the* vehicles, to be used in ~~such service of~~ *the* distribution, delivery, or collection; and

(d) ~~such~~ other ~~or additional~~ information ~~as the~~ *required by the* commission ~~may by order require~~.

(3) ~~Such~~ *The* application ~~shall~~ *must* be accompanied by a fee ~~to be~~ set by rule of the commission.

(4) ~~The submission of a~~ *A* Class C motor carrier application must ~~be accompanied by~~ *include* the names and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. ~~Such~~ *The* contracts must be in writing, executed by the parties*,* and submitted to the commission for examination."

Section 16. Section 69-12-314, MCA, is amended to read:

"69-12-314. Class D motor carrier certificate *of public convenience and necessity*. (1) Class D carriers shall conduct operations pursuant to a certificate of public convenience and–necessity issued by the commission authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers*,* when applying for a new or additional ~~authority~~ *certificate of public convenience and necessity,* shall file an application with the commission in accordance with the requirements of this chapter and the rules of the commission.

(2) A motor carrier may not possess a Class D motor carrier certificate *of public convenience or necessity* or operate as a Class D motor carrier unless the motor carrier actually engages in the transportation of garbage on a regular basis as part of the motor carrier's usual business operation."

Section 17. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) *(a)* Upon the filing of an application *for a certificate* by a Class A, Class B, Class

C, ~~or~~ Class D*, or Class E* motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall ~~give~~ *provide* notice of the ~~filing of the~~ application to any interested party.

(b) ~~The~~ *If a protest or a request for hearing is received, the* commission shall fix a time and place for a hearing on the application ~~whenever a protest or a request for a hearing is received~~. The hearing must be set ~~for a date~~ not later than 60 days after receipt of a protest or a hearing request. ~~by the commission. Whenever no protests or hearing requests are received,~~ *If a protest or a request for hearing is not received,* the commission may act on the application without a hearing as prescribed by commission rules.

(c) A protest related to an application by a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or by a Class E motor carrier is limited to a protest of the motor carrier's ability to meet the requirements of 69-12-323(5).

(2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or boards of any county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) ~~must~~ *shall* appear and offer testimony in support of the applicant.

(4) ~~However, an application by a Class A, Class B, Class C, or~~ *An application by a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a* Class D motor carrier for a certificate *of public convenience and necessity* may be ~~disallowed~~ *denied* without a public hearing when ~~it appears from~~ the records of the commission *demonstrate* that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service. ~~unless it is made to affirmatively appear in the application by a recital of the~~ *A hearing must be held if the applicant presents* facts *demonstrating* that conditions ~~obtaining~~ over the route or in the territory and affecting transportation facilities have materially changed since the previous public investigation and finding and that public convenience and necessity now require the motor carrier operation."

Section 18. Section 69-12-323, MCA, is amended to read:

"69-12-323. Decision on application. (1) *(a)* ~~The commission must issue, within~~ *Except as provided in subsection (1)(b), within* 180 days from ~~and after~~ the date of the completed filing of ~~said~~ *an* application, *the commission shall issue* its finding, order, or decision on ~~said~~ *the* application and the evidence presented in support ~~thereof~~ *of the application* at the time of ~~said~~ *the* hearing.

(b) The commission may extend the ~~foregoing~~ time for *making a* decision to a date requested by the applicant.

(2) (a) If after *a* hearing ~~upon application for~~ *on the request for* a certificate *of public convenience and necessity*~~,~~ the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part ~~thereof~~ *of the service proposed*, ~~as the commission shall determine,~~ a certificate ~~therefor shall~~ *of public convenience and necessity must* be issued. In determining whether a certificate *of public convenience and necessity* should be issued, the commission shall ~~give reasonable consideration to~~ *consider:*

(i) the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency*;* ~~and shall give due consideration to~~

(ii) the likelihood of the proposed service being permanent and continuous throughout 12 months of the year*;* and

(iii) the effect ~~which~~ *that* the proposed transportation service may have ~~upon~~ *on* other forms of transportation service ~~which~~ *that* are essential and indispensable to the communities to be affected by ~~such~~ *the* proposed transportation service or that might be affected ~~thereby~~ *by the proposed transportation service*.

(b) For *the* purposes of ~~Class D certificates~~ *issuing a certificate of public convenience and necessity to a Class D motor carrier*, a determination of public convenience and necessity may include a consideration of competition.

(3) The commission may issue the certificate as ~~prayed for or issue it for the partial exercise only of the privilege sought~~ *requested in the application or in part* and may attach ~~to the exercise of the rights granted by such certificate such~~ terms and conditions *to a certificate of public convenience and necessity for a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier* ~~as~~ *that* in its judgment ~~the~~ public convenience and necessity ~~may~~ require. ~~When~~

(4) If a certificate ~~has once been~~ *is* issued to a motor carrier as provided in this part, ~~such~~ *the* certificate ~~shall continue in force~~ *is in effect* until terminated by the commission for cause ~~as herein provided~~ or until terminated by the owner's failure to comply with 69-12-402.

(5) (a) In determining whether to approve a certificate of compliance for a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier, the commission shall consider only whether the applicant meets the requirements of 69-12-415. The commission shall provide notice and may require a hearing in accordance with 69-12-321.

(b) An applicant seeking a certificate of compliance establishes a rebuttable presumption that it meets the requirements of 69-12-415 by demonstrating compliance with insurance, bonding, and security requirements established by the commission in accordance with 69-12-402."

Section 19. Section 69-12-324, MCA, is amended to read:

"69-12-324. Special provisions when federal or state contract involved. (1) ~~The presentation of the~~ *A* written contract *presented* to the commission ~~shall be deemed~~ *is* sufficient proof *that a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class E motor carrier meets the requirements for a certificate of compliance or that a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier meets the requirements for a certificate* of public convenience and necessity in accordance with the terms and conditions contained within the United States government or state government contracts. Subject to the provisions of this section, a transportation movement is considered to be:

(a) the transportation for hire of persons between two points within the state by a motor carrier pursuant to the terms of a written contract between the carrier and the United States government or an agency or department ~~thereof~~ *of the United States*; or

(b) the transportation for hire of solid waste between two points within the state by a motor carrier pursuant to the terms of a written contract between the

carrier and the state government or an agency or department ~~thereof~~ *of the state*.

(2) The Class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government or state government contract may be issued by the commission upon receipt of an executed copy of the United States government or state government contract. The certificate of public convenience and necessity may be issued ~~thereafter~~ without ~~requiring the commission to fix a time and place for~~ *a* public hearing.

(3) The certificate ~~of public convenience and necessity,~~ issued pursuant to the terms of the United States government or state government contract~~,~~ is authorized only for the duration of the United States government or state government contract concerned. The certificate may be renewed for another definite term if the ~~same~~ motor carrier is the motor carrier authorized to operate under the United States government or state government contract."

Section 20. Section 69-12-404, MCA, is amended to read:

"69-12-404. Suspension of ~~intrastate operating authority~~ *certificate* by petition. (1) *(a)* ~~Every~~ *A* motor carrier ~~as defined within this chapter~~ may petition the commission in writing to suspend its ~~intrastate operating authority~~ *certificate* for a period not to exceed 6 months. ~~An~~ *Only one* additional ~~6 months'~~ *6-month* suspension may be requested and granted~~, but no other~~. ~~Such~~

(b) The suspension *of a certificate of public convenience and necessity requested by a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), by a Class C motor carrier, or by a Class D motor carrier* may be granted ~~by the commission~~ upon a showing of present absence of public convenience and necessity or other showing of matters affecting motor carrier transportation.

(2) *(a)* The suspension of ~~any intrastate operating authority of any carrier~~ *a certificate of compliance for a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or for a Class E motor carrier* as provided for in subsection (1) for a period of 12 consecutive months ~~shall be deemed to establish~~ *automatically terminates a certificate of compliance and requires a motor carrier pursuant to 69-12-311(1)(a) or 69-12-312(1)(a) or a Class E motor carrier to reapply for a certificate of compliance.*

(b) The suspension of a certificate of public convenience and necessity for a motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), a Class C motor carrier, or a Class D motor carrier as provided in subsection (1) for a period of 12 consecutive months establishes a prima facie presumption of absence of public convenience and necessity. If after notice and hearing the *motor carrier pursuant to 69-12-311(1)(b) or 69-12-312(1)(b), the Class C motor carrier, or the Class D motor* carrier is unable to prove the existence of public convenience and necessity or existing demand for the transportation service, the commission ~~is authorized to~~ *may* cancel ~~such~~ *a* certificate of public convenience and necessity."

Section 21. Section 69-12-406, MCA, is amended to read:

"69-12-406. Restriction on transportation of certain waste. Except as provided in 69-12-324, a Class A, *Class* B, ~~or~~ *Class* C*, or Class E motor* carrier may not be authorized or permitted to transport garbage within the state. This restriction does not apply to recyclables."

Section 22. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of a Class A, Class B, Class C, and Class D motor carrier in this state, as they relate to the business of transportation conducted by the motor carrier, must at all times be subject to examination by the commission or by any

authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D motor carriers. A motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its records, books, and accounts according to the uniform system to the extent possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, a motor carrier authorized to engage in business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission.

(3) In addition to other reporting requirements, a Class D motor carrier shall provide sufficient information to the commission to show that the carrier is entitled to possess the Class D motor carrier certificate *of public convenience and necessity* under the requirements of 69-12-314.

(4) (a) To ensure safety with respect to transportation network carrier drivers affiliated with Class E motor carriers, the commission may conduct audits of a Class E motor carrier, but not more than twice annually.

(b) A Class E motor carrier shall, upon request from the commission, provide to the commission up to 1,000 unique identification numbers, each of which has been assigned by the motor carrier to an individual transportation network carrier driver affiliated with the motor carrier.

(c) The commission may request from the Class E motor carrier copies of records held by the motor carrier for up to 10 of the motor carrier's drivers, who may be identified in the request only by the driver's unique identification number.

(d) The Class E motor carrier shall comply with the request in an electronic format acceptable to the commission within 1 business day after receiving the request.

(e) The Class E motor carrier may redact the records provided to the commission under subsection (4)(d) to protect the individual privacy of the transportation network carrier's drivers, including information that could be used to identify a driver. Information that a Class E motor carrier may redact includes but is not limited to the transportation network carrier driver's name, address, and social security number, other than the last four digits.

(5) Except as required by Article II, section 9 or 10, of the Montana constitution, the records obtained by the commission under subsection (4) may not be publicly disclosed by the commission."

Section 23. Section 69-12-415, MCA, is amended to read:

"69-12-415. Carrier fitness. A certificate ~~of operating authority~~ may not be issued or remain in force unless the ~~holder of the~~ certificate *holder* is fit, willing, and able to perform the authorized service and conforms to the provisions of this chapter and the rules and orders of the commission."

Section 24. Section 69-12-501, MCA, is amended to read:

"69-12-501. Rate schedules to be maintained. (1) ~~Every~~ *A* Class A or B motor carrier ~~holding~~ *issued* a certificate ~~must~~ *shall* maintain on file with the commission*, if applicable,* a full and complete schedule of its rates, fares, charges, classifications, and rules of service and any and all tariff provisions relating to ~~such~~ rates, fares, charges, classifications, or rules. ~~Every~~ *A* schedule on file and approved on March 7, 1961, ~~shall remain~~ *remains* in full force and effect until changed or modified by the commission or by the carrier with the approval of the commission.

(2) ~~No~~ *A* change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service ~~shall~~ *may not* be made by ~~any~~ *a* motor carrier without first obtaining the approval of the commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and for the procedures to be followed in filing or publishing any changes or modifications of ~~the same~~ *schedules and tariffs*."

Section 25. Repealer. The following section of the Montana Code Annotated is repealed:

69-12-328. Certificate for charter service.

Section 26. Grandfather clause — transition. A motor carrier that possesses a certificate issued by the commission on or before June 30, 2015, is considered to possess a valid certificate.

Section 27. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 69, chapter 12, and the provisions of Title 69, chapter 12, apply to [sections 1 through 6].

Section 28. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 29. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 30. Effective date. [This act] is effective July 1, 2015.

Approved May 8, 2015

CHAPTER NO. 457

[SB 410]

AN ACT GENERALLY REVISING LAWS RELATED TO TAX CREDITS FOR ELEMENTARY AND SECONDARY EDUCATION; ALLOWING INCOME TAX CREDITS FOR DONATIONS TO PUBLIC SCHOOLS AND STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING SUPPLEMENTAL FUNDING TO PUBLIC SCHOOLS FOR INNOVATIVE EDUCATION; ESTABLISHING GEOGRAPHIC REGIONS AND DISTRICTS FOR SUPPLEMENTAL FUNDING DISTRIBUTIONS; CREATING A STATE SPECIAL REVENUE ACCOUNT; ESTABLISHING OPERATING REQUIREMENTS, REVIEW PROCESSES, AND TERMINATION PROCEDURES FOR STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING THAT THE AMOUNT OF A SCHOLARSHIP IS NOT TAXABLE INCOME; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-30-2110, 15-30-2618, 15-31-511, 17-7-502, AND 20-9-543, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. Pursuant to 5-4-104, the legislature finds that the purpose of innovative educational programs is to enhance the curriculum of public schools with supplemental private contributions through tax replacement programs. The tax credit for taxpayer donations under [sections 1

through 6] must be administered in compliance with Article V, section 11(5), and Article X, section 6, of the Montana constitution.

Section 2. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Eligible public school" means a Montana public school.

(3) "Geographic region" has the meaning provided in [section 3].

(4) "Innovative educational program" means an advanced academic program that enhances the curriculum or academic program of an eligible public school and that is not part of the regular academic program of an eligible public school. The instruction, program, or other activities offered through an innovative educational program must include at least one of the following characteristics:

(a) provides different focus, methodology, skill training, or delivery, including internet-based and distance learning technologies, than is provided in a typical academic program of a public school;

(b) is accessible before or after public school hours, on weekends, as a year-round program, as an extension of the public school year, or in a combination of these characteristics;

(c) uses specialized instructional materials, instructors, or instruction not provided by a public school;

(d) uses internships and other work-based learning opportunities for a student that supplements the curriculum or academic program of a student and provides a student with the opportunity to apply the knowledge and skills learned in the academic program; or

(e) offers instruction or programming that provides credits or advanced placement, or both, at a 2-year or 4-year college or university.

(5) "Large district" has the meaning provided in [section 3].

(6) "Quality educator" has the meaning provided in 20-4-502.

(7) "Taxpayer" has the meaning provided in 15-30-2101.

Section 3. Establishment of geographic regions and large districts — innovative educational program. (1) (a) Geographic regions are established on the basis of county boundaries and are designed to achieve approximate statewide equity among the eleven regions in terms of the number of trustees on school boards located within the applicable regions. The equity must be reviewed periodically by the superintendent of public instruction by dividing the number of trustees serving on school boards located within the applicable region, including trustees on school boards referenced in subsection (2), by the total number of geographic regions and large districts.

(b) The geographic regions are established as follows:

(i) 1st region: Flathead, Lake, and Lincoln Counties;

(ii) 2nd region: Blaine, Hill, and Phillips Counties;

(iii) 3rd region: Daniels, Roosevelt, Sheridan, and Valley Counties;

(iv) 4th region: Dawson, Garfield, McCone, Prairie, Richland, and Wibaux Counties;

(v) 5th region: Cascade, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland Counties;

(vi) 6th region: Mineral, Missoula, Ravalli, and Sanders Counties;

(vii) 7th region: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, and Silver Bow Counties;

(viii) 8th region: Broadwater, Gallatin, Meagher, Park, and Sweet Grass Counties;

(ix) 9th region: Big Horn, Carbon, Stillwater, Treasure, and Yellowstone Counties;

(x) 10th region: Carter, Custer, Fallon, Powder River, and Rosebud Counties; and

(xi) 11th region: Chouteau, Glacier, Lewis and Clark, Liberty, Pondera, Teton, and Toole Counties.

(2) (a) Large districts are established as each of the seven largest school districts in the state based on combined pupil enrollment from kindergarten through the 12th grade.

(b) The seven largest school districts are established as follows:

(i) Billings;

(ii) Butte;

(iii) Bozeman;

(iv) Great Falls;

(v) Helena;

(vi) Kalispell; and

(vii) Missoula.

(3) The superintendent of public instruction shall make recommendations to the education and local government interim committee regarding any adjustments to the regions and large districts necessary to preserve equity and fairness.

Section 4. Distribution of supplemental revenue to public schools — innovative educational program. (1) The superintendent of public instruction shall:

(a) obligate at least 95% of its annual revenue from the educational improvement account provided for in [section 5] for supplemental funding to eligible public schools for innovative educational programs and technology deficiencies;

(b) provide innovative educational program or technology deficiency supplemental funding to eligible public schools; and

(c) distribute supplemental funding from the educational improvement account to each geographic region and each large district in a manner that provides proportionate funding based on the amount of donations under [section 13] in each of the respective geographic regions and large districts. In distributing the supplemental funding, the superintendent of public instruction shall determine the allocation for each school district in a geographic region based on the ratio of the school district's number of quality educators compared to the total number of quality educators in the school district's geographic region.

(2) (a) Subject to subsection (2)(b), the superintendent of public instruction shall use the taxpayer's residential address and allocate the supplemental funding to the geographic region or large district schools that serve the taxpayer's residence. If a residential address is served by schools that are part of a large district and a smaller district, then the superintendent of public instruction must allocate the supplemental funding between the large district

and the geographic region of the smaller district based on the average number belonging served by each district.

(b) A taxpayer may specify the geographic region or large district in which the supplemental funding must be used. If a taxpayer specifies that an allocation is to be used in a:

(i) geographic region, the allocation may not be used in a large district; and

(ii) large district, the allocation may not be used in a geographic region.

(3) The supplemental funding must be deposited in the district's school flexibility fund provided for in 20-9-543. Each district shall report the expenditure of supplemental funding for specific schools to the superintendent of public instruction.

Section 5. Educational improvement account — revenue allocated — appropriations from account. (1) There is an educational improvement account in the state special revenue fund established in 17-2-102. The funds in the account must be administered by the superintendent of public instruction.

(2) The superintendent of public instruction shall accept donations for the purpose of funding innovative educational programs and deposit the donations into the account. The department shall preapprove tax credits for donations as provided in [section 13]. In order to implement and administer the provisions of [sections 1 through 6], the department and the superintendent of public instruction shall exchange taxpayer information and develop policies to prevent the unauthorized disclosure of confidential records and information.

(3) Interest and earnings on the account must be deposited in the account.

(4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction for administrative expenses and for supplemental funding to public schools as provided in [section 4].

Section 6. Rulemaking. The superintendent of public instruction may adopt rules, prepare forms, and maintain records that are necessary to implement and administer [sections 1 through 6].

Section 7. Purpose. Pursuant to 5-4-104, the legislature finds that the purpose of student scholarship organizations is to provide parental and student choice in education with private contributions through tax replacement programs. The tax credit for taxpayer donations under [sections 7 through 17] must be administered in compliance with Article V, section 11(5), and Article X, section 6, of the Montana constitution.

Section 8. Definitions. As used in [sections 7 through 17], the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.

(3) "Geographic region" has the meaning provided in [section 3].

(4) "Large district" has the meaning provided in [section 3].

(5) "Partnership" has the meaning provided in 15-30-2101.

(6) "Pass-through entity" has the meaning provided in 15-30-2101.

(7) "Qualified education provider" means an education provider that:

(a) is not a public school;

(b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; or

(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

(c) is not a home school as referred to in 20-5-102(2)(e);

(d) administers a nationally recognized standardized assessment test or criterion-referenced test and:

(i) makes the results available to the child's parents or legal guardian; and

(ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a publicly accessible private website or provides the composite results of the test to the office of public instruction for posting on its website;

(e) satisfies the health and safety requirements prescribed by law for private schools in this state; and

(f) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

(8) "Small business corporation" has the meaning provided in 15-30-3301.

(9) "Student scholarship organization" means a charitable organization in this state that:

(a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

(b) allocates not less than 90% of its annual revenue for scholarships to allow students to enroll with any qualified education provider; and

(c) provides educational scholarships to eligible students without limiting student access to only one education provider.

(10) "Taxpayer" has the meaning provided in 15-30-2101.

Section 9. Requirements for student scholarship organizations. (1) A student scholarship organization:

(a) shall obligate at least 90% of its annual revenue for scholarships. For the purpose of this calculation:

(i) the cost of the annual fiscal review provided for in [section 11(1)(b)] may be paid out of the total contributions before calculation of the 90% minimum obligation amount; and

(ii) all contributions subject to the 90% minimum obligation amount that are received in 1 calendar year must be paid out in scholarships within the 3 calendar years following the contribution.

(b) may not restrict or reserve scholarships for use at a particular education provider or any particular type of education provider and shall allow an eligible student to enroll with any qualified education provider of the parents' or legal guardian's choice;

(c) shall provide scholarships to eligible students to attend instruction offered by a qualified education provider;

(d) may not provide a scholarship to an eligible student for an academic year that exceeds 50% of the per-pupil average of total public school expenditures calculated in [section 22];

(e) shall ensure that the organization's average scholarship for an academic year does not exceed 30% of the per-pupil average of total public school expenditures calculated in [section 22];

(f) shall maintain separate accounts for scholarship funds and operating funds;

(g) may transfer funds to another student scholarship organization;

(h) shall maintain an application process under which scholarship applications are accepted, reviewed, approved, and denied; and

(i) shall comply with payment and reporting requirements in accordance with [sections 10 and 11].

(2) An organization that fails to satisfy the conditions of this section is subject to termination as provided in [section 16].

Section 10. Tuition payment limitation. (1) A student scholarship organization shall deliver the scholarship funds directly to the qualified education provider selected by the parents or legal guardian of the child to whom the scholarship was awarded. The qualified education provider shall immediately notify the parents or legal guardian that the payment was received.

(2) A parent or legal guardian of an eligible student may not accept one or more scholarship awards from a student scholarship organization for an eligible student if the total amount of the awards exceeds 50% of the per-pupil average of total public school expenditures calculated in [section 22]. This limitation applies to each eligible student of a parent or legal guardian.

Section 11. Reporting requirements for student scholarship organizations. (1) Each student scholarship organization shall:

(a) submit a notice to the department of its intent to operate as a student scholarship organization prior to accepting donations;

(b) complete an annual fiscal review of its accounts by an independent certified public accountant within 120 days after the close of the calendar year that discloses for each of the 3 most recently completed calendar years:

(i) the total number and dollar value of individual and corporate contributions;

(ii) the total number and dollar value of scholarships obligated to eligible students;

(iii) the total number and dollar value of scholarships awarded to eligible students; and

(iv) the cost of the annual fiscal review;

(c) submit the annual fiscal review report to the department within 150 days of the close of the calendar year.

(2) The department shall provide written notice to a student scholarship organization that fails to submit the annual fiscal review report, and the organization has 30 days from receipt of the notice to submit the report.

(3) An organization that fails to satisfy the conditions of this section is subject to termination as provided in [section 16].

Section 12. Student scholarship organizations — listing on website. (1) The department shall maintain on its website a hyperlink to a current list of all:

(a) student scholarship organizations that have provided notice pursuant to [section 11(1)(a)]; and

(b) qualified education providers that accepted scholarship funds from a student scholarship organization.

(2) The list must include:

(a) a statistical compilation of the information received from the student scholarship organizations; and

(b) a hyperlink to the qualified education provider's overall testing scores contained on a publicly accessible private website or to the office of public instruction's website pursuant to [section 8(7)(d)(ii)].

Section 13. Credit for providing supplemental funding to public schools — innovative educational program. (1) Subject to subsection (5), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in [section 5] for the purpose of providing supplemental funding to public schools for innovative educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in [section 4(2)(b)]. The amount of the credit allowed is equal to the amount of the donation, not to exceed $150.

(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability.

(4) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

(5) (a) (i) The aggregate amount of tax credits allowed under this section is $3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if $3 million or the aggregate limit provided for in subsection (5)(a)(iii) in donations were preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (5)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

(6) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(7) After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation.

Section 14. Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection (5), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed $150.

(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability.

(4) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

(5) (a) (i) The aggregate amount of tax credits allowed under this section is $3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if $3 million or the aggregate limit provided for in subsection (5)(a)(iii) in tax credits were preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (5)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

(6) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

(a) claiming a credit under this section instead of a deduction; or

(b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

(7) The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution.

Section 15. Report to revenue and transportation interim committee — student scholarship organizations. Each biennium, the department shall provide to the revenue and transportation interim committee a list of student scholarship organizations receiving contributions from businesses and individuals that are granted tax credits under [section 14]. The listing must detail the tax credits claimed under the individual income tax in chapter 30 and the corporate income tax in chapter 31.

Section 16. Review determination — termination — confidentiality. (1) Subject to subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to determining whether a student scholarship organization is in compliance with [sections 8, 9, and 11].

(2) If a student scholarship organization is not in compliance, the department shall provide to the organization written notice of the specific failures and the organization has 30 days from the date of the notice to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final written notice of the failure to the organization. The organization may appeal the department's determination of failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of the notice.

(3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is not resolved, the department shall issue a final department decision.

(b) The final department decision for a student scholarship organization must provide that the student scholarship organization:

(i) will be removed from the list of eligible student scholarship organizations provided in [section 12] and notified of the removal; and

(ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible list cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization.

(4) A student scholarship organization that receives a final department decision may seek review of the decision from the state tax appeal board pursuant to 15-2-302.

(5) Either party aggrieved as a result of the decision of the state tax appeal board may seek judicial review pursuant to 15-2-303.

(6) If a student scholarship organization files an appeal pursuant to this section, the organization may continue to operate until the decision of the court is final.

(7) The identity of donors who make donations to the educational improvement account provided for in [section 5] or donations to a student scholarship organization is confidential tax information that is subject to the provisions of 15-30-2618.

Section 17. Rulemaking. The department may adopt rules, prepare forms, and maintain records that are necessary to implement and administer [sections 7 through 17].

Section 18. Credit for providing supplemental funding to public schools — innovative educational program. There is a credit against tax liability under this chapter for a donation made to the educational improvement account as provided in [section 13].

Section 19. Qualified education individual income tax credit for contributions to student scholarship organization. There is a credit

against tax liability under this chapter for a charitable donation made to a student scholarship organization as provided in [section 14].

Section 20. Credit for providing supplemental funding to public schools — corporate tax credit — innovative educational program. There is a credit against tax liability under this chapter for a donation made to the educational improvement account as provided in [section 13].

Section 21. Qualified education corporate credit for contributions to student scholarship organization. There is a credit against tax liability under this chapter for a charitable donation made to a student scholarship organization as provided in [section 14].

Section 22. Statewide average per-pupil spending. (1) The superintendent of public instruction shall calculate the per-pupil average of total public school expenditures in Montana for the second most recently completed school fiscal year by August 1 of the ensuing school fiscal year and make the calculation available to the public. The calculation is made by dividing total expenditures calculated in subsection (2) by total pupils calculated in subsection (3).

(2) Funds to be included in total school expenditures for the second most recently completed school year include but are not limited to:

(a) district general fund expenditures;

(b) transportation;

(c) bus depreciation;

(d) food services;

(e) tuition;

(f) retirement;

(g) miscellaneous programs;

(h) traffic education;

(i) nonoperating fund;

(j) lease-rental agreement;

(k) compensated absence fund;

(l) metal mines tax reserve;

(m) state mining impact;

(n) impact aid;

(o) litigation reserve;

(p) technology acquisition;

(q) flexibility fund;

(r) debt service;

(s) building reserve; and

(t) interlocal agreement.

(3) Total pupils are computed using an amount equal to the per-pupil average, but not the per-ANB average provided in 20-9-311, for Montana school districts for the second most recently completed school year.

Section 23. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection (13), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; ~~and~~

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163*; and*

(t) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to [section 10].

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the

federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of $3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of $3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed $5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 24. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be

treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.

(5) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding $500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(7) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(8) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(9) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program

planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20*;*

(i) to the superintendent of public instruction information required under [section 5]."

Section 25. Section 15-31-511, MCA, is amended to read:

"15-31-511. Confidentiality of tax records. (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any

item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(f) the disclosure of information to the commissioner of insurance's office that is necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1); ~~and~~

(b) provide corporate income tax and alternative corporate income tax information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

(c) furnish to the superintendent of public instruction information required under [section 5].

(5) A person convicted of violating this section shall be fined not to exceed $500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction."

Section 26. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; *[section 5];* 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;

75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

Section 27. Section 20-9-543, MCA, is amended to read:

"20-9-543. School flexibility fund — uses. (1) (a) The trustees of a district shall establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

(i) technological equipment enhancements and expansions considered by the trustees to support enhanced educational programs in the classroom;

(ii) facility expansion and remodeling considered by the trustees to support the delivery of educational programs or the removal and replacement of obsolete facilities;

(iii) supplies and materials considered by the trustees to support the delivery of enhanced educational programs;

(iv) student assessment and evaluation;

(v) the development of curriculum materials;

(vi) training for classroom staff considered by the trustees to support the delivery of enhanced educational programs;

(vii) purchase, lease, or rental of real property that must be used to provide free or reduced price housing for classroom teachers;

(viii) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom teachers and other certified staff, subject to collective bargaining when applicable; ~~or~~

(ix) increases in energy costs caused by an increase in energy rates from the rates paid by the district in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other resources of the district*; or*

(x) innovative educational programs as defined in [section 2] and technology deficiencies.

(b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

(2) The trustees of a district shall fund the school flexibility fund with the money allocated under *[section 4] and* 20-9-542 and with the money raised by the levy under 20-9-544.

(3) The financial administration of the school flexibility fund must be in accordance with the financial administration provisions of this title for a budgeted fund."

Section 28. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1 through 6].

(2) [Sections 7 through 17] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 7 through 17].

(3) [Sections 18 and 19] are intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [sections 18 and 19].

(4) [Sections 20 and 21] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 20 and 21].

(5) [Section 22] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 22].

Section 29. Coordination instruction. If both Senate Bill No. 171 and [this act] are passed and approved and if [this act] contains a section that amends 15-30-2110 and Senate Bill No. 171 contains a section that repeals 15-30-2110, then [section 1] of Senate Bill No. 171 must be amended as follows:

"NEW SECTION. **Section 1. Adjustments to federal taxable income to determine Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(c) a nonqualified withdrawal from a family education savings account provided for in Title 15, chapter 62, to the extent that it was deducted from income in calculating Montana individual income taxes;

(d) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction or expense upon which a state tax credit is computed under 33-22-2006 to the extent that it was included as a deduction or expense in determining federal taxable income;

(g) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661; and

(h) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

(3) To the extent they are included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest; and

(ii) railroad retirement benefits;

(b) salary received from the armed forces by residents who entered into active duty from Montana and are serving on active duty in the regular armed forces;

(c) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(d) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a family education savings account provided for in Title 15, chapter 62, and any qualified withdrawal for payment of qualified higher education expenses;

(e) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(f) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the additions and

subtractions in subsections (2), ~~and~~ (3)(a) through (3)(e), ~~and~~ (3)(g), *and (3)(h)*; ~~and~~

(g) for each taxpayer that has attained the age of 65, an additional subtraction of $6,400*; and*

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to [section 10 of Senate Bill No. 410].

(4) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for that tax year, rounding the result to the nearest $10. The resulting amount is effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g)."

Section 30. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 31. Effective date. [This act] is effective January 1, 2016.

Section 32. Applicability. [This act] applies to tax years beginning after December 31, 2015.

Section 33. Termination. [This act] terminates December 31, 2023.

Approved May 8, 2015

RESOLUTIONS

Adopted by the

SIXTY-FOURTH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 5, 2015, through April 28, 2015

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

House Joint Resolutions

HOUSE JOINT RESOLUTION NO. 7

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF NEXT-GENERATION 9-1-1 IN MONTANA.

WHEREAS, deployment of next-generation 9-1-1 communications systems will enhance emergency response and public safety in Montana and will establish the foundation for public safety services in an increasingly mobile society; and

WHEREAS, the demands and challenges associated with evolving next generation 9-1-1 networks and technologies will require statewide innovation and coordination.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) assess the state and federal regulatory and statutory environment affecting next-generation 9-1-1; and

(2) study and make recommendations for the implementation, management, and operation and ongoing development of next-generation 9-1-1 emergency communications services.

BE IT FURTHER RESOLVED, that the development of a plan for advancing next-generation 9-1-1 in Montana must involve the participation of local, state, federal, and tribal stakeholders, including but not limited to a representative of the land information advisory council established in 90-1-405, a representative from the department of administration's public safety communications bureau, representatives of public safety emergency first responder groups, county government, law enforcement, disaster and emergency services, telecommunications service providers of emergency communications services serving urban and rural areas, and other stakeholders with an interest in next-generation 9-1-1.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 11, 2015

HOUSE JOINT RESOLUTION NO. 8

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE CURRENT STATE AND FUTURE OF THE

MONTANA LAW ENFORCEMENT ACADEMY, TO INCLUDE A THOROUGH EXAMINATION OF FUNDING, OPERATIONS, AND CAMPUS NEEDS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

WHEREAS, the Montana Law Enforcement Academy is required by law to provide education and training to newly hired law enforcement and public safety professionals from state, county, city, and tribal governments; and

WHEREAS, the Montana Law Enforcement Academy provides ongoing and continuing education and training programs for law enforcement and public safety officers to bolster their knowledge, skills, and abilities related to their service as law enforcement or public safety officers; and

WHEREAS, the Montana Law Enforcement Academy is primarily funded by a surcharge revenue mechanism that was created in 2003 that has never materialized to the projected levels and has decreased each fiscal year; and

WHEREAS, the campus that houses the Montana Law Enforcement Academy was built in the 1920s and requires many capital improvements, and its residential capacity is severely limited.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) study long-term funding options for the Montana Law Enforcement Academy; and

(2) review the current state and future of the operations and campus needs of the Montana Law Enforcement Academy.

BE IT FURTHER RESOLVED, that the study involve the participation of state, county, city, and tribal law enforcement and public safety officials, the Montana Department of Justice, the Montana Department of Corrections, the Montana Association of Counties, the Montana League of Cities and Towns, and other interested parties.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted March 19, 2015

HOUSE JOINT RESOLUTION NO. 11

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING PROMPT CONGRESSIONAL AND PRESIDENTIAL APPROVAL FOR THE KEYSTONE XL PIPELINE.

WHEREAS, the state of Montana, counties, and school districts will benefit substantially by an increase in the property tax base when the Keystone XL Pipeline is approved and completed; and

WHEREAS, the Certificate of Compliance granted by the Department of Environmental Quality in 2012 for the Keystone XL Pipeline states that "the Project will generate long-term property tax revenues for the counties traversed

by the pipeline that will last for the life of the Project. The Project will generate approximately $63 million in annual property tax revenues in Montana"; and

WHEREAS, the on-ramp at Baker, Montana, will allow 100,000 barrels of Bakken oil to be transported daily to Gulf Coast refineries; and

WHEREAS, the selected location of the pipeline through Montana and the conditions imposed by the Certificate of Compliance granted by the Department of Environmental Quality minimize adverse impacts on the environment, landowners, and affected communities; and

WHEREAS, significant infrastructure improvements, including powerlines and road and bridge improvements, will be built and paid for by TransCanada; and

WHEREAS, Montana's Congressional delegation unanimously supports the approval of the pipeline; and

WHEREAS, Montana's Governor Steve Bullock supports approval of this pipeline.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 64th Legislature urges prompt Congressional and Presidential approval for the Keystone XL Pipeline.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Montana's Congressional Delegation.

Adopted March 23, 2015

HOUSE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ROADS ON FEDERAL LAND, FEDERAL LAND PARCELS THAT ARE SURROUNDED BY PRIVATE LAND, AND THE EFFECTS OF DIMINISHED ACCESS ON RECREATIONAL OPPORTUNITIES.

WHEREAS, the federal government has eliminated or reduced access to a number of roads on federal land in Montana, resulting in a significant loss of access; and

WHEREAS, diminished access on federal land has reduced hunting and fishing opportunities for Montanans and has shifted hunting pressure to private land; and

WHEREAS, diminished access on federal land has reduced outdoor recreational opportunities other than hunting and fishing, such as motorized trail riding, snowmobiling, mountain biking, camping, bird watching, and hiking, among others; and

WHEREAS, outdoor recreation is a major source of tourist interest in Montana and significantly contributes to the Montana tourism economy; and

WHEREAS, the trend is toward further reductions in access on federal land; and

WHEREAS, some parcels of federal land in Montana are "landlocked", meaning they are surrounded entirely by private land and accessible by surface

transportation only by gaining the permission of a neighboring landowner to cross the landowner's land; and

WHEREAS, it is possible that some landlocked federal land is not accessible by surface transportation because no neighboring landowner will grant permission to cross the landowner's land, which limits the recreational opportunities of the numerous outdoor recreational interests listed above; and

WHEREAS, providing a high level of hunting opportunity is important for Montana's economy, for keeping Montana wildlife populations at healthy, manageable levels, and for preserving Montana's outdoor heritage for future generations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) conduct an assessment of road access on federal land in Montana over a 35-year period to determine which roads have been closed and which roads have had some limitation placed on access. The assessment should include:

(a) the location of each road, including all gated roads;

(b) the approximate mileage of each road; and

(c) identification of the federal agency to which the road belongs.

(2) conduct an assessment of landlocked public parcels in Montana including:

(a) the size and location of each landlocked parcel;

(b) the number of landowners that own property adjacent to each parcel; and

(c) whether any of the adjacent landowners permit outdoor recreationists to cross their property to reach each parcel;

(3) conduct an assessment of trends in permits and licenses being issued by the Department of Fish, Wildlife, and Parks in each area for elk and deer hunting over a 15-year period, with a specific emphasis on identifying reduced hunter opportunity in areas where roads have been closed on federal land or where there are large landlocked areas.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 22, 2015

HOUSE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXAMINE EYEWITNESS IDENTIFICATION

POLICIES AND PROCEDURES AT STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

WHEREAS, eyewitness misidentification is the leading contributing factor in wrongful conviction cases proven by DNA evidence, playing a role in 72% of the nation's 321 DNA exonerations; and

WHEREAS, improving the accuracy of eyewitness identifications and reducing the risk of misidentifications can enhance law enforcement investigations, protect the innocent, and improve public safety; and

WHEREAS, on October 2, 2014, the National Academy of Sciences, the nation's premier source of independent expert advice on scientific issues, released a report recommending that law enforcement adopt the following best practices to improve the accuracy of eyewitness identifications:

(1) blind or blinded administration, in which the officer administering the lineup does not know the suspect's identity or may know the suspect's identity but cannot tell which photo the witness is viewing at any given time;

(2) witness instructions that the perpetrator may or may not be present and that the investigation will continue regardless of whether the witness makes an identification; and

(3) documenting witness confidence statements in which, immediately after an identification is made, the eyewitness is asked to describe in the witness's own words the level of certainty in the identification; and

WHEREAS, the Montana Law Enforcement Academy issued an eyewitness identification model policy in 2012 that includes all of the best practices recommended in the National Academy of Sciences' report; and

WHEREAS, the Montana Law Enforcement Academy is training new officers with the evidence-based best practices recommended by the National Academy of Sciences, but veteran officers may not have been trained in these techniques; and

WHEREAS, ensuring that law enforcement agencies across the state uniformly adopt and implement eyewitness identification best practices will enhance the fair administration of justice in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study eyewitness identification policies at state and local law enforcement agencies, including:

(1) identifying current written eyewitness identification policies and procedures in place at law enforcement agencies throughout the state;

(2) creating a plan for a uniform, statewide adoption of the eyewitness identification model policy developed by the Montana Law Enforcement Academy by law enforcement agencies;

(3) identifying resources to assist law enforcement with the adoption of eyewitness identification best practices that comport with the Montana Law Enforcement Academy policy;

(4) recommending essential components of training programs for law enforcement officers on eyewitness identification procedures;

(5) developing a compliance mechanism to ensure that law enforcement agencies have adopted evidence-based eyewitness policies; and

(6) identifying any statutory changes needed to implement the policies.

BE IT FURTHER RESOLVED, that the committee involve relevant stakeholders in the study, including the Department of Justice, the Montana Law Enforcement Academy, county and local law enforcement agencies, the Office of State Public Defender, organizations dedicated to investigating postconviction claims of innocence, and other stakeholders identified by the committee, in order to develop a clear road map for uniform adoption of the Montana Law Enforcement Academy identification model policy at the county and local law enforcement agency level.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 1, 2015

HOUSE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE FEDERAL GOVERNMENT TO ACT TO RESTORE FEDERAL RECOGNITION TO THE LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA.

WHEREAS, the Little Shell Tribe of Chippewa Indians of Montana has been waiting for more than 100 years for its federal recognition to be restored; and

WHEREAS, in 2001, the 57th Legislature passed House Joint Resolution 11 expressing its support for federal recognition of the Little Shell Tribe and calling on the federal government to act; and

WHEREAS, the federal government has still not acted to restore federal recognition to the Little Shell Tribe; and

WHEREAS, federal recognition of the Little Shell Tribe has broad support within the state of Montana, including the support of the Governor, the Montana Congressional Delegation, the local jurisdictions where the Little Shell Tribe resides, and the other tribes of Montana; and

WHEREAS, federal recognition will restore the Little Shell Tribe to its rightful place among other federally recognized tribes; and

WHEREAS, the Montana Congressional Delegation has made efforts to restore the Little Shell Tribe's federal recognition; and

WHEREAS, Senator Tester and Senator Daines have introduced the Little Shell Tribe of Chippewa Indians Restoration Act of 2015, Senate Bill 35, 114th Congress, and Congressman Zinke has introduced a companion bill in the United States House of Representatives, House of Representatives Bill 286, 114th Congress; and

WHEREAS, the United States Department of the Interior is reviewing the Little Shell Tribe's appeal for federal recognition.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature urges the federal government to restore federal recognition to the Little Shell Tribe of Chippewa Indians.

BE IT FURTHER RESOLVED, that the Montana Legislature applauds the Montana Congressional Delegation's legislative efforts to restore federal recognition to the Little Shell Tribe and calls on the United States Congress to pass Senate Bill 35 and House of Representatives Bill 286.

BE IT FURTHER RESOLVED, that the Montana Legislature calls on the Department of the Interior to administratively restore the Little Shell Tribe's federal recognition.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to:

(1) the members of the Montana Congressional Delegation;

(2) the Secretary of the Department of the Interior;

(3) the Assistant Secretary for Indian Affairs for the Department of the Interior; and

(4) the Little Shell Tribal Council.

Adopted March 16, 2015

HOUSE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF RIDE SHARING AND MOTOR CARRIER SERVICES IN MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

WHEREAS, there have been technological advances in personal transportation options offered by motor carriers and potentially available to Montanans to reduce emissions, reduce costs, increase accessibility, and increase customer choice; and

WHEREAS, innovations in services and technologies have affected the motor carrier services industry in several ways, including the types of vehicles available to passengers, booking methods, payment options, and most recently the introduction of smartphones and the ability to use a software application, or app, to arrange for a ride between a driver and a passenger; and

WHEREAS, a comprehensive review of Montana's regulation of motor carriers and the impact of innovative technology on these different categories of motor carriers and on the economy of Montana is needed; and

WHEREAS, a piecemeal approach to regulating motor carrier services in Montana could result in a patchwork of conflicting standards, stifle innovation, and reduce consumer choice; and

WHEREAS, Montana is a rural state where public transportation options are not widely available in some areas and innovations in services and technologies that have affected the motor carrier services industry may help fill that void.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study motor carrier service in Montana with a focus on technological advances in personal

transportation options offered by motor carriers and potentially available to Montanans.

BE IT FURTHER RESOLVED, that the study review:

(1) the statutes, administrative rules, and Public Service Commission policies and procedures that govern motor carrier service in Montana, as well as any relevant best practices or national standards that are set for the operation of motor carriers, with an emphasis on innovations in services and technologies that affect motor carrier services;

(2) insurance coverage and policy requirements to own and operate a motor carrier providing transportation for compensation;

(3) safety regulations, including those related to motor carriers or drivers, that apply to vehicles used to provide transportation for compensation;

(4) the impact of the regulation of motor carrier services by local governments; and

(5) barriers faced by regulated motor carrier operators, including limitations because of public convenience and necessity stipulations, lease and meter rates, and enforcement of rules regarding other transportation services.

BE IT FURTHER RESOLVED, that the study involve stakeholders, including the Public Service Commission, a variety of different classifications of motor carriers, representatives of local governments, representatives of ride-sharing services, and other interested parties.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 8, 2015

HOUSE JOINT RESOLUTION NO. 21

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF OPPORTUNITIES TO EXPAND OWNERSHIP OF PERSONAL INFORMATION; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

WHEREAS, we live in an increasingly digitized age, which allows for personal information to be collected frequently by governmental and corporate entities and then shared, distributed, and sold; and

WHEREAS, collecting and sharing such information increases the potential for such data to be used in a manner not approved of by the owner of that information; and

WHEREAS, there are both benefits and strong privacy concerns that come with this heightened level of data collection, necessitating action to ensure that individuals are able to exert more control over their personal information; and

WHEREAS, there is currently no definitive statute that provides a comprehensive definition of personal information in the technology age; and

WHEREAS, there is confusion as to who owns which pieces of collected personal information and the level of control they may exert over that information; and

WHEREAS, finding measures to conceptualize and legislate property rights regarding personal information will allow individuals to better control the collection, dissemination, and use of that information; and

WHEREAS, property rights are commonly conceptualized as a bundle of rights including the right to use a good, the right to earn income from a good, the right to transfer a good to others, and the right to enforcement of property rights.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study opportunities to expand ownership of personal information.

BE IT FURTHER RESOLVED, that the study:

(1) explore opportunities to provide greater power and control to people regarding information collected about them;

(2) clarify the level of ownership that individuals have concerning the collection, dissemination, and use of personal data and the methods by which individuals may exercise and enforce their rights regarding use of that information;

(3) find methods for consumers to exclude their personal information property from use without severely inhibiting private sector and government functions; and

(4) address, at a minimum, the following types of personal information:

(a) medical records, including records of health conditions, symptoms, treatment, diagnoses, laboratory test information and results, and any information derived from this information;

(b) prescription information, including drug names, dosage, frequency, amounts, dates and times of pickup, and any information derived from this information;

(c) shopping and purchase records, including descriptions of items purchased, the location of purchases, the dates and times of purchases, the price and amounts of purchases, any product return dates, times, locations, and other derived information, and ammunition purchase records, including caliber, brand, price, and amount;

(d) the individual's location, obtained using a handheld communications device carried by the individual, a GPS tracking device, a radio tracking device, a radio frequency identification tag, an automated license plate reader, or facial recognition software;

(e) social security number, driver's license number, state identification card number, or tribal identification card number;

(f) web search terms, browser history, and information derived from this information; and

(g) passwords for personal e-mail, internet, and application accounts not including cryptographic hashes of passwords, such as those commonly used for login authentication.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 24, 2015

HOUSE JOINT RESOLUTION NO. 27

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY ON STATUTORY APPROPRIATIONS AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

WHEREAS, the state of Montana currently has 100 statutes that provide for a statutory appropriation in state law; and

WHEREAS, the amount of funds from the general fund spent through statutory appropriations is approximately $540 million each biennium; and

WHEREAS, the public policy role of the legislature regarding the costs of state government includes establishing and understanding the components of statutory appropriations and their impact on total expenditures of the state of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative finance committee, in consultation with the legislative council, be requested to study or direct sufficient staff resources to:

(1) study what a statutory appropriation is and how one is established;

(2) identify statutory appropriations that do not meet the conditions set forth in 17-1-508(2), MCA.

(3) determine if programs that are funded by a statutory appropriation are more successful than those that are funded through the general appropriations act; and

(4) identify or recommend potential future legislation, if necessary.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by the legislative finance committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluding by September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the legislative finance committee, be reported to the 65th legislature.

Adopted April 24, 2015

House Resolutions

HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following House Rules be adopted:

RULES OF THE MONTANA HOUSE OF REPRESENTATIVES

CHAPTER 1
Administration

H10-10. House officers — definitions. (1) House officers include a Speaker, a Speaker pro tempore, majority and minority leaders, and majority and minority whips (section 5-2-221, MCA).

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) "Majority leader" means the leader of the majority party, elected by the caucus as provided in 5-2-221.

(b) "Majority party" means the party with the most members, subject to subsection (4).

(c) "Minority leader" means the leader of the minority party, elected by the caucus as provided in 5-2-221.

(d) "Minority party" means the party with the second most members, subject to subsection (4).

(4) If there are an equal number of members of the two parties with the most members, then the majority party is the party of the Speaker and the minority party is the other party with an equal number of members.

H10-20. Speaker's duties. (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals (section 5-11-201, MCA), subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker's absence.

(8) Upon request of the Minority Leader, the Speaker will submit a request for a fiscal note on any bill.

H10-30. Speaker-elect. During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House (section 5-2-202, MCA). Authority includes approving presession expenditures.

H10-40. Speaker pro tempore duties. The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

H10-50. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

(2) helping the Speaker develop the calendar;

(3) assisting the Speaker with program development, policy formation, and policy decisions; and

(4) presiding over the majority caucus meetings; and

(5) other duties as assigned by the caucus.

H10-60. Majority Whip. The duties of the majority whip may include but are not limited to:

(1) assisting the majority leader;

(2) ensuring member attendance;

(3) counting votes;

(4) generally communicating the majority position; and

(5) other duties as assigned by the caucus.

H10-70. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

(1) developing the minority position;

(2) negotiating with the majority party;

(3) directing minority caucus activities on the chamber floor;

(4) leading debate for the minority; and

(5) other duties as assigned by the caucus.

H10-80. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

(1) assisting the minority leader on the floor;

(2) counting votes;

(3) ensuring attendance of minority party members; and

(4) other duties as assigned by the caucus.

H10-90. Employees. (1) The Speaker shall appoint a Chief Clerk and Sergeant-at-Arms and may appoint a Chaplain, subject to confirmation of the House (section 5-2-221, MCA).

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1).

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint a private secretary.

H10-100. Chief Clerk's duties. The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

(1) supervise all House employees;

(2) have custody of all records and documents of the House;

(3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

H10-110. Duties of Sergeant-at-Arms. The Sergeant-at-Arms shall:

(1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;

(2) be present whenever the House is in session and at any other time as directed by the presiding officer;

(3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;

(4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;

(5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;

(6) bring in absent members when so directed under a call of the House;

(7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-70;

(8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;

(9) supervise the doorkeeper; and

(10) supervise the pages.

H10-120. Legislative aides. (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

H10-140. House journal. (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

(a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3; 5-2-214);

(b) committee reports;

(c) messages from the Governor;

(d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session (section 5-11-201, MCA).

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

H10-150. Votes recorded and public. Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

H10-160. Duration of legislative day. A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier. (See Joint Rule 10-20.)

CHAPTER 2
Decorum

H20-10. Addressing the House — recognition. (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, "For what purpose does the member rise?" or "For what purpose does the member seek recognition?" and

may then decide if recognition is to be granted. There is no appeal from the Speaker's or presiding officer's decision.

H20-20. Questions of order and privilege — appeal — restrictions. (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative seconded by two representatives. The question on appeal is, "Shall the decision of the chairman be sustained?".

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

H20-30. Limits on lobbying. Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session. A registered lobbyist is prohibited from the house floor.

H20-40. Admittance to the House floor. (1) The following persons may be admitted to the House floor during a daily session: present legislators and former legislators who are not registered lobbyists; legislative employees necessary for the conduct of the session; registered media representatives; and members' spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member's chair when the House is in session.

H20-50. Dilatory motions or questions — appeal. The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House.

H20-60. Lobbying by employees — sanctions. (1) A legislative employee or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker may discipline or discharge any House employee violating this prohibition. The Speaker may withdraw the privileges of any House aide violating this prohibition.

H20-70. Papers distributed on desks — exception. A paper concerning proposed legislation may not be placed on representatives' desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution. This restriction does not apply to material prepared by staff and placed on a representative's desk at the request of the representative.

H20-80. Violation of rules — procedure — appeal. (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the majority or minority leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the majority or minority leader. The Committee may recommend to the House that the member be censured or be subject to other action. The House shall act upon the recommendation of the Committee.

CHAPTER 3
Committees

H30-10. House standing committees — appointments — classification. (1) (a) The Speaker shall determine the total number of members and after good faith consultation with the minority leader shall appoint the chairs, vice chairs, and members to the standing committees.

(b) The minority leader shall designate a minority vice chair for each standing committee.

(2) The standing committees of the House are as follows:

(a) class one committees:

(i) Appropriations;

(ii) Business and Labor;

(iii) Judiciary;

(iv) State Administration; and

(v) Taxation;

(b) class two committees:

(i) Education;

(ii) federal Relations, Energy, and Telecommunications;

(iii) Human Services;

(iv) Natural Resources; and

(v) Transportation;

(c) class three committees:

(i) Agriculture;

(ii) Fish, Wildlife, and Parks; and

(iii) Local Government; and

(d) on call committees:

(i) Ethics;

(ii) Rules; and

(iii) Legislative Administration.

(3) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(4) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's

recommendations must be submitted to the leadership nominated or elected at the presession caucus provided for in 5-2-201.

(5) There will be six subcommittees of the Committee on Appropriations, Education, General Government, Health and Human Services, Natural Resources and Transportation, Judicial Branch, Law Enforcement, and Justice, and Long-Range Planning. Each member serving on the Appropriations Committee must be appointed to at least one of the subcommittees.

(6) The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(7) The Speaker may, in the Speaker's discretion or as authorized by the House, create and appoint select committees, designating the chairman and vice chairman of the select committee. Select committees may request or receive legislation in the same manner as a standing committee and are subject to the rules of standing committees.

H30-20. Chairman's duties. (1) The principal duties of the chairman of standing or select committees are to:

(a) preside over meetings of the committee and to put all questions;

(b) maintain order and decide all questions of order subject to appeal to the committee;

(c) supervise and direct staff of the committee;

(d) have the committee secretary keep the official record of the minutes;

(e) sign reports of the committee and submit them promptly to the Chief Clerk;

(f) appoint subcommittees to perform on a formal or an informal basis as provided in subsection (2); and

(g) inform the Speaker of committee activity.

(2) With the exception of the House Appropriations subcommittees, a subcommittee of a standing committee may be appointed by the chairman of the committee. The chairman of the standing committee shall appoint the chairman of the subcommittee.

H30-30. Quorum — officers as members. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the majority leader, and the minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

H30-40. Meetings — purpose — notice — minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee directed to and with the approval of the Speaker.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes;

(f) references to the recording log, sufficient to serve as an index to the original recording; and

(g) testimony and exhibits submitted in writing.

H30-50. Procedures — absentee or proxy voting — member privileges. (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) Except as provided in subsection (3)(c), at the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a bill may be withdrawn by the sponsor without a hearing. A bill may not be reported from a committee without a hearing.

(c) A bill may not be withdrawn by the sponsor after a hearing.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of a

recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as "do pass" or "do not pass", does not result in the matter passing out to the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive changes; and

(d) a fiscal note, if required.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting. Standing and select committees may by a majority vote of the committee authorize members to vote by proxy if absent, while engaged in other legislative business or when excused by the presiding officer of the committee due to illness or an emergency. Authorization for absentee or proxy voting must be reflected in the committee minutes.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(14) The chairman shall decide points of order.

(15) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chairman;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy if authorized pursuant to subsection (9), using a standard form or through the vice chairman or minority vice chairman.

(16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

H30-60. Public testimony — decorum — time restrictions. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is allowed only at the discretion of the chairman.

CHAPTER 4
Legislation

H40-10. Introduction deadlines. If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

H40-20. House resolutions. (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

H40-30. Cosponsors. (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator shall sign the cosponsor form attached to the legislation in order to be added as a cosponsor.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove

cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

H40-40. Introduction — receipt — messages from Senate and elected officials. (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

H40-50. First reading — receipt of Senate legislation. Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

H40-60. One reading per day — exception. Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

H40-70. Referral. (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

H40-80. Rereferral — Appropriations Committee rereferral — normal progression. (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) (a) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(b) (i) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Appropriations Committee pursuant

to H40-80(2)(a) and is reported from committee without amendments may be placed on third reading.

(ii) Prior to being placed on third reading, legislation rereferred pursuant to H40-80(2)(b)(i) must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading and rereferred to the House Appropriations Committee and reported from the committee without amendments.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

H40-90. Legislation withdrawn from committee. (1) Except as provided in subsection (2), legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) For the 2015 Session, the majority party leadership and the minority party leadership may each make up to six separate requests to withdraw a bill from a House committee, and these requests require only a simple majority of those present and voting to withdraw a bill from a House committee.

H40-100. Standing committee reports — requirement for rejection of adverse committee report. (1) A House standing committee recommendation of "do pass" or "be concurred in" must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of "do not pass" or "be not concurred in" must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

H40-110. Consent calendar procedure. (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a "consent calendar" item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a "consent calendar" item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce

consideration of the consent calendar and allow "reasonable time" for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

H40-120. Legislation requiring other than a majority vote. Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

H40-130. Amending House second and third reading agendas — vote requirements. (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) Legislation may be added to the second or third reading agenda on that legislative day on a motion approved by not less than three-fifths of the members present and voting.

H40-140. Second reading — timing — obverse vote on failed motion — status of amendments — rejection of report — segregation. (1) Legislation returned or withdrawn from committee by motion must be placed on second reading prior to the transmittal deadlines provided for in Joint Rule 40-200 that are applicable to each piece of legislation.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill "do pass" or "be concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do not pass" or "be not concurred in", is considered to have passed. If a motion to recommend that a bill "do not pass" or "be not concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do pass" or "be concurred in", is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading

unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered pursuant to H50-170 or unless the legislation is rereferred to a committee.

H40-150. Amendments in the Committee of the Whole — timing — official records. (1) All Committee of the Whole amendments must be prepared by the Legislative Services Division and checked by the House amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the majority leader, the minority leader, and sponsor agree, amendments must be printed and placed on the members' desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

H40-160. Motions in the Committee of the Whole — quorum required. (1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (Senate amendments to House legislation);

(c) amend;

(d) reconsider as provided in H50-170;

(e) pass consideration;

(f) call for cloture;

(g) change the order in which legislation is placed on the agenda; and

(h) rise, rise and report, or rise and report progress and beg leave to sit again.

(2) Subsections (1)(d) through (1)(f) and (1)(h) are nondebatable but may be amended. Once a motion under subsection (1)(a) or (1)(b) is made, a contrary motion is not in order.

(3) The motions listed in subsection (1) may be made in descending order as listed.

(4) If a quorum of representatives is not present during second reading, the Committee of the Whole may not conduct business on legislation and a motion for a call of the House without a quorum is in order.

H40-170. Limits on debate in the Committee of the Whole. (1) Except as provided in H40-180, a representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) (a) Except as provided in subsection (2)(b), after at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed from the point in time that the sponsor's opening remarks on the motion end and debate on the motion begins, a motion to call for cloture is in order.

(b) (i) The 30-minute tolling requirement for a cloture motion made pursuant to subsection (2)(a) does not include time spent on floor debate of a substitute motion to amend the original question.

(ii) Each substitute motion to amend the original question is subject to a cloture motion and the cloture requirements provided for in this rule.

(iii) Once a substitute motion to amend is dispensed with and there are no other substitute motions to amend, the 30-minute tolling requirement for the original question pursuant to subsection (2)(a) resumes from the point in time in which the first substitute motion to amend was made.

(c) Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

H40-180. Special provisions for debate on the general appropriations bill — sections — amendments. (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

H40-190. Engrossing. (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it must be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing and must be placed on third reading on the legislative day after receipt. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill. (See Joint Rule 40-150.)

H40-200. Third reading. (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

H40-210. Senate legislation in the House. Senate legislation properly transmitted to the House must be treated as House legislation.

H40-220. Senate amendments to House legislation. (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may rerefer House legislation with Senate amendments to a committee for a hearing if the Senate amendments constitute a significant change in the House legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

H40-230. Conference committee reports. (1) When a House conference committee files a report, the report must be announced under Order of Business No. 3.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

H40-240. Enrolling. (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation. (See Joint Rule 40-160.)

H40-250. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

H40-260. Governor's veto. (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 5
Floor Actions

H50-10. Attendance — excuse — call of the House. (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

H50-20. Quorum. (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may not conduct business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

H50-30. Call of the House without a quorum. (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

H50-50. Leave with cause during call of the House. (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker may approve a request for a leave with cause.

(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

H50-60. Opening and order of business. The opening of each legislative day must include an invocation, the pledge of allegiance, and roll call. Following the opening, the order of business of the House is as follows:

(1) communications and petitions;

(2) reports of standing committees;

(3) reports of select committees;

(4) messages from the Senate;

(5) messages from the Governor;

(6) first reading and commitment of bills;

(7) second reading of bills;

(8) third reading of bills;

(9) motions;

(10) unfinished business;

(11) special orders of the day; and

(12) announcement of committee meetings.

H50-70. Motions. (1) Any representative may propose a motion allowed by the rules for the order of business under which the motion is offered for the consideration of the House. Unless otherwise specified in rule or law, a majority of representatives voting is necessary and sufficient to decide a motion.

(2) Seconds to motions on the House floor are not required.

(3) Absentee votes are not allowed on votes that are specified as "representatives present and voting".

(4) The majority leader shall make routine procedural motions required to conduct the business of the House.

H50-80. Limits on debate of debatable motions. (1) Except for the representative who places a debatable motion before the body, no representative may speak more than once on the question unless a unanimous House consents. The representative who places the motion may close.

(2) No representative may speak for more than 10 minutes on the same question, except that a representative may have 5 minutes to close.

H50-90. Nondebatable motions. (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

(a) to adjourn pursuant to H50-250;

(b) for a call of the House;

(c) to recess or rise;

(d) for parliamentary inquiry;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to amend a nondebatable motion;

(h) to divide a question;

(i) to suspend the rules;

(j) all incidental motions, such as motions relating to voting or of a general procedural nature;

(k) to appeal a call to order;

(l) to question the lack of a quorum pursuant to H50-20; and

(m) to change a vote pursuant to H50-210.

H50-100. Questions. A representative may, through the presiding officer, ask questions of another representative during a floor session. There is no limit on questions and answers, except as provided in H20-50.

H50-110. Amending motions — limitations. (1) A representative may move to amend the specific provisions of a motion without changing its substance.

(2) No more than one motion to amend a motion is in order at any one time.

(3) A motion for a call of the House, for the previous question, to table, or to take from the table may not be amended.

H50-120. Substitute motions. (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

(a) to adjourn (nondebatable H50-90 and H50-250);

(b) for a call of the House (nondebatable H50-90);

(c) to recess or rise (nondebatable H50-90);

(d) for a question of privilege;

(e) to table (nondebatable H50-90);

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer to a committee; and

(i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

H50-130. Withdrawing motions. A representative who proposes a motion may withdraw it before it is voted on or amended.

H50-140. Dividing a question. Except as provided in H40-180(3), a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed. The request is nondebatable under H50-90. The presiding officer may rule that a question is nondivisible. The ruling of the chair may be appealed as provided in H50-160(14) or (16) and H70-50. For an appeal of a ruling of the presiding officer, the question for the house must be stated as, "Shall the ruling of the chair be upheld?".

H50-150. Previous question — close. (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

H50-160. Questions requiring other than a majority vote. The following questions require the vote specified for each condition:

100 House Members

(1) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths);

(3) a motion to approve a bill to appropriate highway revenue, as described in Article VIII, section 6, of the Montana Constitution, for purposes other than therein described (three-fifths);

(4) a motion to approve a bill to authorize creation of state debt pursuant to Article VIII, section 8, of the Montana Constitution (two-thirds);

(5) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths);

(6) a motion to temporarily suspend a joint rule governing the procedure for handling bills pursuant to Joint Rule 60-10(2) (two-thirds).

Members Present and Voting

(1) a motion to override the Governor's veto pursuant to H40-260 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(2) a motion to lift a call of the House pursuant to H50-30(3) (two-thirds);

(3) a motion to rerefer a bill from one committee to another pursuant to H40-80(1) (three-fifths);

(4) except as provided in H40-90(2), a motion to withdraw a bill from a committee pursuant to H40-90 (three-fifths);

(5) a motion to add legislation to the second or third reading agenda on that day pursuant to H40-130(2) (three-fifths);

(6) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

(7) a motion to change a vote pursuant to H50-210 (unanimous);

(8) a motion to call for cloture pursuant to H40-170(2) (two-thirds);

(9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(10) a motion to amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);

(11) a motion to overturn an adverse committee report pursuant to H40-100(2) (three-fifths);

(12) a motion to record a vote pursuant to H50-200(2) (one representative);

(13) a motion to record a vote in the journal (two representatives);

(14) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);

(15) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);

(16) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee pursuant to H70-50 (15 representatives).

Entire Legislature

(1) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature).

H50-170. Reconsideration — time restriction. (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider is limited to two proponents and two opponents to the motion and the debate may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(3) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(4) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(5) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(6) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(7) There may be only one reconsideration vote on a specific issue on a legislative day.

H50-180. Renewing procedural motions. The House may renew a procedural motion if further House business has intervened.

H50-190. Tabling. (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

H50-200. Voting — conflict of interest — present by electronic means. (1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.

(5) A member may be present for a vote by electronic means.

H50-210. Changing a vote — consent required. (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

H50-220. Absentee votes — restrictions. (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading or on motions specified as present and voting pursuant to H50-70.

H50-230. Recess. The House may stand at ease or recess under any order of business by order of the Speaker or a majority vote. The recess may be ended at the call of the chair or at a time specified.

H50-240. Adjournment for a legislative day. (1) A representative may move that the House adjourn for that legislative day. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

(2) A motion to adjourn for a legislative day must specify a date and time for the House to convene on the subsequent legislative day.

H50-250. Adjournment sine die. Subject to Article V, section 10(5), of the Montana Constitution, a representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

CHAPTER 6
Motions

H60-10. Proposal for consideration. (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

H60-20. Nondebatable motions. The following motions, in addition to any other motion specifically designated, must be decided without debate:

(1) to adjourn;

(2) for a call of the House;

(3) to recess or rise;

(4) for parliamentary inquiry;

(5) to table or to take from the table;

(6) to call for the previous question or for cloture;

(7) to amend a nondebatable motion;

(8) to divide a question;

(9) to suspend the rules; and

(10) all incidental motions, such as motions relating to voting or of a general procedural nature.

H60-30. Motions allowed during debate. (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

(a) to adjourn;

(b) for a call of the House;

(c) to recess or rise;

(d) for a question of privilege;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer or rerefer; and

(i) to propose amendments.

(2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.

(3) Only one substitute motion is in order at any time.

H60-40. Motions to adjourn or recess. (1) A motion to adjourn or recess is always in order, except:

(a) when the House is voting on another motion;

(b) when the previous question has been ordered and before the final vote;

(c) when a member entitled to the floor has not yielded for that purpose; or

(d) when business has not been transacted after the defeat of a motion to adjourn or recess.

(2) A motion to adjourn sine die pursuant to H50-250 is subject to Article V, section 10(5), of the Montana Constitution.

(3) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

H60-50. Motion to table. (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) After a vote on a motion to table is carried or fails, the motion cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

H60-60. Motion to postpone. A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

H60-70. Motion to refer. When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

H60-80. Terms of debate on motion to refer or rerefer. (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

H60-100. Moving the previous question after a motion to table. (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

H60-110. Standard motions. The following are standard motions:

(1) moving House bills or resolutions on second reading, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill ___, that it recommend the same (do pass)/(do pass as amended)/(do not pass)."

(2) moving Senate bills and Senate amendments to House bills, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill ___/Senate amendments to House Bill ___, that it recommend the same (be concurred in)/(be not concurred in)."

(3) Committee of the Whole floor amendments, "Mister/Madam Chairman, I move that House Bill ___/Senate Bill ___ be amended and request that the amendment be posted and deemed read."

(4) introducing visitors, "Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal."

(5) changing a vote, "Mister Speaker, I would like my vote changed on House Bill ___/Senate Bill ___ from (yes/no) to (yes/no). The question on the bill was ( ) with a vote tally of ____ for and ____ against."

(6) question another representative, "Mister/Madam Speaker/Chairman, would Representative ___ yield to a question?"

CHAPTER 7
Rules

H70-10. House rules — amendment — report timing. (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

H70-20. Tenure of rules. Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

H70-30. Suspension of rules. The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

H70-40. Supplementary rules. Mason's Manual of Legislative Procedure (2010) governs House proceedings in all cases not covered by House rules.

H70-50. Interpreting rules — appeal. The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on

the appeal on the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

H70-60. Joint rules superseded. A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

Appendix

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

Agriculture: Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

Appropriations: Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

Business and Labor: Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

Education: Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers; school transportation; students; teachers; and vocational education and training.

Ethics: Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

Federal Relations, Energy, and Telecommunications: Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; and utilities other than municipal utilities.

Fish, Wildlife, and Parks: Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

Human Services: Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

Judiciary: Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law;

privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

Legislative Administration: Interim committees and matters related to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

Local Government: Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

Natural Resources: Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

Rules: House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

State Administration: Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

Taxation: Taxes other than fuel taxes.

Transportation: Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by the Speaker.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chair determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a three-fifths vote.

Adopted January 8, 2015

HOUSE RESOLUTION NO. 2

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING 75 YEARS OF DEDICATED SERVICE OF SMOKEJUMPERS.

WHEREAS, smokejumpers have been a source of prominence and pride in Montana and the nation since their inception and have provided a continuing service to the state and the nation; and

WHEREAS, the smokejumper program attracts highly competent, committed, and competitive personnel of diverse cultural backgrounds from around the nation to live and work in Montana; and

WHEREAS, smokejumpers have engaged in the educational, economic, charitable, social, cultural, and political sectors of Montana, in addition to their national service; and

WHEREAS, many smokejumpers have chosen Montana as the state in which to work, live, raise their families, serve, and retire; and

WHEREAS, according to its mission statement, the National Smokejumper Association is "dedicated to preserving the history and lore of smokejumping, maintaining and restoring our nation's forest and grassland resources, responding to special needs of smokejumpers and their families and advocating for the program's evolution"; and

WHEREAS, the values of the National Smokejumper Association are comradeship, education, pride in work well done, and loyalty; and

WHEREAS, in July 2015 on the University of Montana campus, the National Smokejumper Association will celebrate the 75th anniversary of the first parachute jump to a forest fire, which occurred in July 1940.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the House of Representatives of the State of Montana recognizes 75 years of excellence and dedicated service of smokejumpers in Montana and across the nation.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the National Smokejumper Association.

Adopted April 13, 2015

HOUSE RESOLUTION NO. 3

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE PAYMENT OF COMPENSATION TO LINCOLN COUNTY FOR LOSSES INCURRED DUE TO THE CONSTRUCTION OF LIBBY DAM.

WHEREAS, Libby Dam, located in Lincoln County, Montana, is the fourth dam constructed under the Columbia River Treaty, which the Canadian government and the United States government entered into in 1964, and is located on the Kootenai River, which is the third largest tributary to the Columbia River and contributes almost 20% of the total water in the lower Columbia River; and

WHEREAS, Libby Dam was dedicated on August 24, 1975, and spans the Kootenai River 17 miles upstream from the town of Libby, Montana; and

WHEREAS, Lake Koocanusa, the reservoir behind Libby Dam, extends 90 miles north of the dam, with 48 miles of Lake Koocanusa located in Lincoln County and the remainder in British Columbia, Canada; and

WHEREAS, Libby Dam, in Montana's northwest corner, and three dams in Canada were constructed to protect downstream areas from flooding, and Libby Dam holds back an average of 5,800,000 acre-feet of water; and

WHEREAS, economic benefits have been derived from the storage of these floodwaters and the coordinated, timely release of those waters for generation of electricity, irrigation, navigation, and recreation; and

WHEREAS, the construction of Libby Dam placed many thousands of acres of land in Lincoln County under water, leading to decreased real property tax revenues for the county and a loss of timber sales and wildlife and fish habitat, among other losses; and

WHEREAS, the Canadian government was compensated for construction of the dams and storage of floodwaters through a sharing of dollars on electricity from additional power generated at downstream dams and hydropower generating facilities, leading to the formation of the Columbia Basin Trust; and

WHEREAS, citizens of Lincoln County did not participate in the negotiations for the terms of the Columbia River Treaty and no compensation has been received by Lincoln County; and

WHEREAS, the renegotiation of the treaty is currently being considered, and there is a possibility that compensation could be provided to Lincoln County as a result of federal legislation, litigation, determination of regulations, and the renegotiation of the treaty.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the House of Representatives of the State of Montana supports the payment of compensation to Lincoln County for the decreased real property tax revenues, the loss of timber sales and wildlife and fish habitat, and other losses due to the construction of Libby Dam.

Adopted April 22, 2015

Senate Joint Resolutions

SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

CHAPTER 10
Administration

10-10. Time of meeting. Each house may order its time of meeting.

10-20. Legislative day — duration. (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

10-30. Schedules. The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

10-40. Adjournment — recess — meeting place. A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)). The procedure for obtaining consent is contained in Joint Rule 20-10.

10-50. Access of media — registration — decorum — sanctions. (1) Subject to the presiding officer's discretion on issues of decorum and order, a registered media representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

(2) The presiding officer shall authorize the issuance of cards to media representatives to allow floor access, and media representatives holding the cards are subject to placement on the floor by the presiding officer. The presiding officer may delegate enforcement of this rule to the office of the Secretary of the Senate, Chief Clerk of the House, the respective Sergeant-at-Arms, or the Legislative Information Officer. The privilege may be revoked or suspended for a violation of decorum and order as agreed to by the media representative upon application for registration.

(3) Registered media representatives may be subject to seating in designated areas. Overflow access will be in the gallery.

10-60. Conflict of interest. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs. (section 2-2-112, MCA)

10-70. Telephone calls and internet access. (1) Long-distance telephone calls made by a member on a state telephone while the Legislature is in session or while the member is in travel status are considered official legislative

business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides, may use state telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

(4) For purposes of this section, "state telephone" or "state phone" means a landline telephone or other telephone provided by the state.

10-80. Joint employees. The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

10-85. Harassment prohibited — reporting. (1) Legislators and legislative employees have the right to work free of harassment on account of race, color, sex, culture, social origin or condition, or religious ideas when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, legislator, lobbyist, or member of the public.

(2) A violation of this policy must be reported to the party leader in the appropriate house if the offended party is a legislator or to the presiding officer if the offended party is the party leader. The presiding officer may refer the matter to the rules committee of the applicable house, and the offender is subject to discipline or censure, as appropriate.

(3) If the offended party is an employee of the house of representatives or the senate, the violation must be reported to the employee's supervisor or, if the offender is the supervisor for the house of representatives or the senate, the report should be made to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a permanent legislative employee, the report should be made to the employee's supervisor or, if the offender is the supervisor, to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(4) If the offended party is a supervisor for the house of representatives or the senate, the violation must be reported to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a supervisor of permanent legislative employees, the violation must be reported to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(5) The chief clerk or the secretary shall report the violation to the presiding officer. The presiding officer may refer the matter to the rules committee. If the offender is an employee or supervisor, the employee or supervisor is subject to discipline or discharge.

10-100. Legislative Services Division. (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

(3) The Legislative Services Division shall train journal clerks for both houses.

10-120. Engrossing and enrolling staff — duties. (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

(i) errors in spelling;

(ii) errors in numbering sections;

(iii) additions or deletions of underlining or lines through matter to be stricken;

(iv) material copied incorrectly from the Montana Code Annotated;

(v) errors in outlining or in internal references;

(vi) an error in a title caused by an amendment;

(vii) an error in a catchline caused by an amendment;

(viii) errors in references to the Montana Code Annotated; and

(ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall give notice to the sponsor of the bill or amendment. The form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing with the Secretary of the Senate or the Chief Clerk of the House by the end of the next legislative day following receipt of the notice. The Senate or House shall vote on whether or not to uphold the objection. If the objection is upheld, the Secretary of the Senate or the Chief Clerk of the House shall notify the Executive Director of the Legislative Services Division, and the engrossing staff shall change the bill to remove the correction or corrections to which the objection was made.

(4) For the purposes of this rule, "engrossing" means placing amendments in a bill.

10-130. Bills — sponsorship — style — format. (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

(a) printed on paper with numbered lines;

(b) numbered at the foot of each page (except page 1);

(c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and

(d) introduced. Introduction constitutes the first reading of the bill.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) (a) Except as provided in subsection (4)(b), sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(b) (i) Sections of the Montana Code Annotated repealed or amended in a legislative referendum must be stated in the title unless the inclusion of those sections in the title would cause the title to cumulatively exceed the 100-word limit pursuant to section 5-4-102, MCA.

(ii) If the inclusion of sections of the Montana Code Annotated repealed or amended in a legislative referendum title would cause the title to cumulatively exceed 100 words, the title must include those sections that do not exceed the 100-word limit and include a reference to the total number of additional sections listed in the body of the bill that are excluded from the title due to the 100-word limit. Those additional sections excluded from the title must be listed in a section within the body of the bill after the enacting clause.

(5) Introduced bills must be reproduced on white paper and distributed to members.

10-140. Voting on bills — constitutional amendments. (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

(3) This rule does not prevent a committee from tabling a bill proposing an amendment to The Constitution of the State of Montana.

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made available to the public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

(i) amend;

(ii) recommend passage or nonpassage;

(iii) recommend concurrence or nonconcurrence; or

(iv) indefinitely postpone.

(b) The text of all proposed amendments in Committee of the Whole must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the

minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a written log conforming to section 2-3-212(2), MCA, must also be kept.

10-160. Journal. Each house shall:

(1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;

(2) examine its journal and order correction of any errors; and

(3) make a daily journal available to all members.

10-170. Journals — authentication — availability. (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives must be authenticated by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public (sections 5-11-201 through 5-11-203, MCA).

CHAPTER 20
Relations With Other House

20-10. Consent for adjournment or recess. As required by Article V, section 10(5), of the Montana Constitution, the consent of the other house is required for adjournment or recess for more than 3 calendar days. Consent for adjournment is obtained by having the house wishing to adjourn send a message to the other house and having the receiving house vote favorably on the request. The receiving house shall inform the requesting house of its consent or lack of consent. Consent is not required on or after the 87th legislative day.

CHAPTER 30
Committees

30-10. Joint committee chair — exception. Except as provided in Joint Rule 30-50 concerning the joint meetings of the Senate Finance and Claims Committee and the House Appropriations Committee, the chair of the Senate committee is the chair of all joint committees.

30-20. Voting in joint committees — exception. (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

30-30. Conference committees — subject matter restrictions. (1) If either house requests a conference committee and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept.

(2) A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend:

(a) acceptance or rejection of each disputed amendment in its entirety; or

(b) further amendment of the disputed amendment.

(3) If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as provided in subsection (1). A free conference committee may discuss and propose amendments to a bill in its entirety and is not confined to a particular amendment. However, a free conference committee is limited to consideration of amendments that are within the scope of the title of the introduced bill.

30-40. Conference committee — enrolling. A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

30-50. Committee consideration of general appropriation bills. (1) All general appropriation bills must first be considered by a joint subcommittee composed of designated members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each committee separately.

(2) Joint meetings of the House Appropriations Committee and the Senate Finance and Claims Committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

(a) either house has fewer members on the joint subcommittees;

(b) the chair represents the house with fewer members on the subcommittees; and

(c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

30-60. Estimation of revenue. The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature. (5-5-227, MCA)

30-70. Appointment of interim committees. As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

(1) Economic Affairs Interim Committee:

(a) Senate Agriculture, Livestock, and Irrigation Committee;

(b) Senate Business, Labor, and Economic Affairs Committee;

(c) Senate Finance and Claims Committee;

(d) House Agriculture Committee;

(e) House Business and Labor Committee;

(f) House Federal Relations, Energy, and Telecommunications Committee; and

(g) House Appropriations Committee;

(2) Education and Local Government Interim Committee:

(a) Senate Education and Cultural Resources Committee;

(b) Senate Local Government Committee;

(c) Senate Finance and Claims Committee;
(d) House Education Committee;
(e) House Local Government Committee; and
(f) House Appropriations Committee;
(3) Children, Families, Health, and Human Services Interim Committee:
(a) Senate Public Health, Welfare, and Safety Committee;
(b) Senate Finance and Claims Committee;
(c) House Human Services Committee; and
(d) House Appropriations Committee;
(4) Law and Justice Interim Committee:
(a) Senate Judiciary Committee;
(b) Senate Finance and Claims Committee;
(c) House Judiciary Committee; and
(d) House Appropriations Committee;
(5) Revenue and Transportation Interim Committee:
(a) Senate Taxation Committee;
(b) Senate Highways and Transportation Committee;
(c) Senate Finance and Claims Committee;
(d) House Taxation Committee;
(e) House Transportation Committee; and
(f) House Appropriations Committee;
(6) State Administration and Veterans' Affairs Interim Committee:
(a) Senate State Administration Committee;
(b) Senate Finance and Claims Committee;
(c) House State Administration Committee; and
(d) House Appropriations Committee;
(7) Energy and Telecommunications Interim Committee:
(a) Senate Energy Committee;
(b) House Federal Relations, Energy, and Telecommunications Committee;
(c) House Appropriations Committee; and
(d) Senate Finance and Claims Committee.

CHAPTER 40
Legislation

40-10. Amendment to state constitution. A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

40-20. Appropriation bills — introduction in House — feed bill. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

40-30. Effective dates. (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed in the joint resolution (sections 1-2-201 and 1-2-202, MCA).

40-40. Bill requests and introduction — limits and procedures — drafting priority — agency and committee bills. (1) Prior to a regular session, a person entitled to serve in that session, referred to as a "member", or a legislative committee is entitled to request bill drafting services from the Legislative Services Division. Deadlines for requesting certain types of bills during a legislative session are contained in Joint Rule 40-50.

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must pick up the bill and sign a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

(i) Code Commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 20 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15 for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form.

The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill back must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Any bill requested by an interim or statutory legislative committee or on behalf of an administrative or executive agency or department through an interim or statutory committee must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill by amendment. The phrase may not be placed on a bill unless requested by a statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction of an agency, committee, or individual legislator's bill must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue. Bills requested under this subsection (5)(b) may include the phrase "By Request of.....(Name of official or committee)".

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

40-50. Schedules for drafting requests and bill introduction. (1) The following schedule must be followed for submission of drafting requests.

	Request Deadline 5:00 P.M. Legislative Day
• General Bills and Resolutions	12
• Revenue Bills	17
• Committee Bills and Resolutions	36
• Committee Revenue Bills and Bills Proposing Referenda	62
• Committee Bills implementing provisions of a general appropriation act	67
• Interim study resolutions	60
• Appropriation Bills	45
• Resolutions to express confirmation of appointments	No Deadline
• Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) (a) A bill or resolution must be introduced at least 6 legislative days prior to the applicable transmittal deadline as provided in Joint Rule 40-200 except for:

(i) a session committee bill or resolution;

(ii) a bill repealing or directing the amendment or adoption of administrative rules;

(iii) a joint resolution advising or requesting the repeal, amendment, or adoption of administrative rules; or

(iv) a resolution expressing confirmation.

(b) Bills and resolutions must be introduced within 2 legislative days after delivery. Failure to comply with the introduction deadline results in the bill draft being canceled.

40-60. Joint resolutions. (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

(a) express desire, opinion, sympathy, or request of the Legislature;

(b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;

(c) request, but not require, a legislative entity to conduct an interim study;

(d) adopt, amend, or repeal the joint rules;

(e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;

(f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;

(g) submit a negotiated settlement under section 39-31-305(3), MCA;

(h) declare or terminate an energy emergency under section 90-4-310, MCA;

(i) ratify or propose amendments to the United States Constitution;

(j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or

(k) approve the organization of a new community college district under section 20-15-209, MCA.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

40-65. Appropriation required for bills requesting interim studies. A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

40-70. Bills with same purpose — vetoes. (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

40-80. Reproduction of full statute required. A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

40-90. Bills — original purpose. A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

40-100. Fiscal notes. (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

(a) the estimated increase or decrease in revenues or expenditures;

(b) costs that may be absorbed without additional funds; and

(c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within 3 days of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(10) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

40-110. Sponsor's fiscal note rebuttal. (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal pursuant to section 5-4-204, MCA, the sponsor shall make the election as provided and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note rebuttal.

(3) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals and shall print the completed sponsors' fiscal note rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.

40-120. Substitute bills. (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

40-130. Reading of bills. Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title. Introduction constitutes the first reading of the bill.

40-140. Second reading — bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of

the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

(a) enrolled;

(b) clerically corrected by the presiding officers, if necessary;

(c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

40-170. Amendment by second house. (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

40-180. Final action on a bill. (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

40-190. Transmittal of bills between houses — referral — hearing. (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

(3) Transmitted bills must be referred to committee and scheduled for hearing.

40-200. Transmittal deadlines — two-thirds vote requirement. (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, a bill proposing a referendum, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, bills proposing referenda, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 67th legislative day.

(ii) Amendments to revenue bills and bills proposing referenda, received from the other house, must be transmitted to the house of origin on or before the 80th legislative day.

(iii) A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day. A fund transfer within the state treasury is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced pursuant to 5-5-227, MCA, for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the body in which the resolution was introduced no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

40-210. Governor's veto. (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

(a) bills proposing amendments to The Constitution of the State of Montana;

(b) bills ratifying proposed amendments to the United States Constitution;

(c) resolutions; and

(d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

40-220. Response to Governor's veto. (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

40-230. Governor's recommendations for amendment — procedure. (1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.

(b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

CHAPTER 60
Rules

60-10. Suspension of joint rule — change in rules. (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

60-20. Reference to Mason's Manual. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

60-30. Publication and distribution of joint rules. (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

60-40. Tenure of joint rules. The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted January 26, 2015

SENATE JOINT RESOLUTION NO. 2

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE FEASIBILITY OF MONTANA ASSUMING AUTHORITY TO ADMINISTER FEDERAL SECTION 404 PERMITS REQUIRED BY THE CLEAN WATER ACT.

WHEREAS, projects in and near Montana waterways are subject to local, state, and federal permits; and

WHEREAS, the Clean Water Act allows states to assume administration of some permitting programs; and

WHEREAS, state administration of the Clean Water Act for Federal Section 404 permits would give Montana more direct control over its land and water, could eliminate duplicative regulations, would be administered by employees with local knowledge, and could expedite the permitting process; and

WHEREAS, the Environmental Quality Council has administrative oversight of state agencies that regulate waterways and is well suited to evaluate the feasibility of assuming state administration of the Clean Water Act and propose necessary changes to state law.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate local, state, and federal permits for waterway projects to identify overlapping regulations;

(2) determine if Montana has the jurisdiction and authority to regulate activities covered by the Federal Section 404 permit required by the Clean Water Act;

(3) solicit information from the regulated community, conservation districts, local governments, the Departments of Environmental Quality and Natural Resources and Conservation, the U.S. Army Corps of Engineers, the Environmental Protection Agency, and the public to determine potential benefits, disadvantages, and obstacles to state assumption of the Federal Section 404 permit program; and

(4) evaluate costs of applying for assumption of the Federal Section 404 permit program, estimate ongoing costs of administering the program, and identify state laws that may need amendment to assume primacy for the Federal Section 404 program.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 24, 2015

SENATE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE MILITARY SERVICE OF MONTANANS IN THE ARMED FORCES OF THE UNITED STATES.

WHEREAS, all Americans have the right, by virtue of wearing the noble title of citizen, to great personal freedoms in the pursuit of life, liberty, and happiness; and

WHEREAS, the history of our young country demonstrates countless examples of bravery and personal sacrifice in order to preserve the freedoms and liberties of the collective citizenry; and

WHEREAS, since September 11, 2001, the nation has once again called upon those who have dedicated their lives to the defense of the nation to stand up against forces that wish ill upon the United States; and

WHEREAS, Montanans have always answered the call to defend the nation, and Montanans will continue to serve and lead in the Armed Forces; and

WHEREAS, Montanans serving in every branch of service, whether on active duty, in the National Guard or Reserves, or retired or honorably discharged from any branch of service, have served in the defense of this great nation at great personal sacrifice to themselves and their families; and

WHEREAS, a number of Montanans have made the ultimate sacrifice in battlefields overseas; and

WHEREAS, we as Montanans will continue to support these heroes as they return home to face the challenge of rejoining family, friends, and community.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognize the dedication, professionalism, and bravery of all Montanans who have served and will serve in the armed forces of the United States.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the respective Secretaries of the United States Army, Navy, and Air Force, the Commandant of the United States Marine Corps, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard.

BE IT FURTHER RESOLVED, that the Secretary of State include with the copies sent to the respective Secretaries of the Army, Navy, and Air Force, the Commandant of the United States Marine Corps, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard a request that the respective Secretaries and Commandants and the Adjutant General use every means available to provide a copy of this resolution to each member of the Armed Forces who hails from Montana.

BE IT FURTHER RESOLVED, that the purpose and intent of this resolution is to convey to Montana service personnel that the heartfelt thanks of all Montanans are extended to them, that we are proud of them, that they are in our prayers, and that we send them best wishes for a safe return.

Adopted April 10, 2015

SENATE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING OPPOSITION TO THE FEDERAL GOVERNMENT'S CUTS TO THE MEDICARE PROGRAM UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT TO FUND MEDICAID EXPANSION.

WHEREAS, according to the Centers for Medicare and Medicaid Services, 183,364 older residents of Montana were enrolled in the Medicare program in 2013; and

WHEREAS, the Patient Protection and Affordable Care Act of 2010 reduces Medicare payments for hospitals and skilled nursing services, home health visits, and hospital services by $716 billion over the next 10 years; and

WHEREAS, the Patient Protection and Affordable Care Act cuts are made across the board without concerns for the impact on the value or quality of care Montana residents would receive; and

WHEREAS, an actuary for the Centers for Medicare and Medicaid Services has projected that the Medicare cuts in the Patient Protection and Affordable Care Act will cause 15% of hospitals and nursing homes to stop accepting Medicare patients over the next 10 years; and

WHEREAS, the Centers for Medicare and Medicaid Services actuary has projected that 40% of hospitals will be unprofitable by 2015 due to the Medicare cuts in the Patient Protection and Affordable Care Act; and

WHEREAS, Montana's older residents who are enrolled in Medicare are set to experience an average cut in benefits of $2,780 by 2017 because of the Patient Protection and Affordable Care Act; and

WHEREAS, the Patient Protection and Affordable Care Act cuts in Medicare will lead to 5 million to 7 million seniors nationally being forced off their Medicare Advantage plans over the next 6 years; and

WHEREAS, 17% of Medicare beneficiaries in Montana were enrolled in a Medicare Advantage plan; and

WHEREAS, 14,202 seniors in Montana will be forced off their current Medicare Advantage plan by 2017 due to the Patient Protection and Affordable Care Act, with roughly 9,000 seniors already receiving notices that their plans have been or will be canceled; and

WHEREAS, reductions to Medicare Advantage will result in seniors losing extra benefits available in the program, including but not limited to dental care, hearing coverage, podiatry coverage, transportation benefits, travel benefits, an integrated drug benefit, and limits on out-of-pocket maximum expenses; and

WHEREAS, the Patient Protection and Affordable Care Act cuts to Medicare Advantage plans will disproportionately impact low-income seniors, as those making between $10,800 and $21,600 are 19% more likely to be enrolled when compared to traditional Medicare enrollees; and

WHEREAS, seniors will face fewer choices of insurance plans and doctors, higher out-of-pocket costs, and reduced benefits under the Patient Protection and Affordable Care Act cuts to Medicare.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Senate and House of Representatives stand with older residents of the state to call on the federal government to use the money not spent on Medicaid expansion and instead use it to reverse the painful cuts, loss

of choice, and loss of benefits for seniors in Medicare under the Patient Protection and Affordable Care Act.

BE IT FURTHER RESOLVED, that before extending Medicaid to working-age, able-bodied childless adults under the Patient Protection and Affordable Care Act, the federal government should keep its promises to our most vulnerable seniors.

Adopted April 11, 2015

SENATE JOINT RESOLUTION NO. 10

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE AUDIT COMMITTEE PRIORITIZE A PERFORMANCE AUDIT OF THE SCHOOL DATA COLLECTION SYSTEMS AND PROCEDURES OF THE OFFICE OF PUBLIC INSTRUCTION AND THAT THE LEGISLATIVE AUDITOR PRESENT FINDINGS FROM THE PERFORMANCE AUDIT TO THE 65TH LEGISLATURE.

WHEREAS, it is the superintendent of public instruction's duty pursuant to 20-3-105 to "faithfully work in all practical and possible ways for the welfare of the public schools of the state"; and

WHEREAS, it is the intent of the Legislature in providing a basic system of free quality public elementary and secondary schools that the statewide data system administered by the office of public instruction supports "the collection of data from schools through a process that provides for automated conversion of data from systems already in use by school districts or the office of public instruction and that resolves the repetition of data entry and redundancy of data requested that has been characteristic of the data system in the past and that otherwise reduces the diversion of district staff time away from instruction and supervision", as emphasized in 20-7-104; and

WHEREAS, 20-7-104 also requires that the "superintendent of public instruction shall continually work in consultation with the K-12 data task force provided for in 20-7-105 to analyze the best options for a statewide data system"; and

WHEREAS, the K-12 data task force has met only once during the biennium since its creation; and

WHEREAS, schools are reporting that the burdens of adhering to the data collection requirements of the office of public instruction are taking time away from instruction and impeding the ability of schools to develop the full educational potential of their students; and

WHEREAS, collection of student and family information should respect and maintain the privacy of the student and the family.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Audit Committee prioritize a performance audit of the school data collection systems and procedures of the office of public instruction, and that as part of the performance audit, the Legislative Auditor:

(1) review the history of efforts to improve the efficiency of data collection from Montana schools;

(2) investigate the data collection systems of other states to determine whether Montana is adhering to generally accepted best practices for data collection;

(3) present findings from the performance audit in a readily accessible format for use by the Legislature and any interested parties; and

(4) assess whether the data collection and sharing methods and practices maintain the individual privacy of students and their families.

BE IT FURTHER RESOLVED, that the final results of the performance audit including any findings, conclusions, comments, or recommendations be reported to the 65th Legislature.

Adopted April 18, 2015

SENATE JOINT RESOLUTION NO. 12

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF NET METERING COSTS AND BENEFITS.

WHEREAS, it is imperative to forecast the costs and benefits of the state's net metering program before making changes to the program; and

WHEREAS, before moving forward with changes in Montana's net metering program, the state must determine what the cost impacts are on nonparticipating utility customers and whether net metering programs reduce utility bills overall; and

WHEREAS, the state must evaluate the economic impact of net metering on private renewable energy production and the impact on the producer, utilities and cooperatives, and other energy consumers; and

WHEREAS, the state must evaluate the impact of net metering on utility operations, including the ability of the utility control center to monitor power production, the costs and benefits of dispatchable versus nondispatchable resources, and the need for economic dispatch criteria; and

WHEREAS, the state must evaluate the potential risk to utility employees serving the utility's transmission and distribution system and potential safeguards to ensure their safety; and

WHEREAS, the state must evaluate whether state tax incentives and universal system benefits funded construction grants for the installation of net metered systems are necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to conduct a study to assess the benefits and costs of net metering systems to public utilities and rural electric cooperatives and the costs and benefits to customers who do not use net metering systems.

(2) The study may include but is not limited to:

(a) a review of the general impacts of net metering, including a determination of:

(i) fixed plant costs, including a quantification of cost shifts, if any, between net metering customers and customers who do not net meter for payment of fixed costs of the utility, including billing, poles, and wires, exclusive of generation;

(ii) operating costs, including, exclusive of generation, a quantification of the reduction, if any, in the fixed costs of a utility delivery system due to net metered interconnections;

(iii) whether decreases or increases effect the cost of maintaining and operating a utility delivery system; and

(iv) costs, if any, per net metered system for generators. The quantifications in this subsection (2)(a) must account for net metering a single generator of 50 kilowatts or less up to a single generator of 5 megawatts.

(b) a review of the electric supply resource impacts of net metering, including:

(i) a quantification of the benefits and costs of net metering systems to the utility's electric supply resources that are displaced when net metered systems are generating and required when net metered systems are not generating, quantified per megawatt of connected net metered systems; and

(ii) a determination of costs of integrating net metering systems per megawatt, compared to the integration costs of a utility's other electric supply resources, including ancillary services, such as regulation, generating reserves, frequency response, and load following;

(c) a review of the safety issues related to net metering, including a determination of:

(i) tangible impacts to line personnel when operating the system with interconnected net metering systems; and

(ii) testing frequency of devices required at net metered systems for line personnel and public safety, specifically testing requirements to prevent net metered systems from back feeding the grid during grid power disruptions;

(d) a review of system stability issues related to net metering, including:

(i) a report on the capacity of net metered systems that would necessitate real-time communication from net metering systems to the grid operator to properly operate the grid; and

(ii) an assessment of the benefits, if any, of requiring smart inverters or reviewing electrical code standards to mitigate operational problems, if any, resulting from high saturation of the utility's power delivery system by net metering systems;

(e) a review of the subsidies, if any, provided in the form of tax credits, abatements, deductions, and state and federal grant or loan programs. The review must include an analysis of universal system benefits program funds for net metering and the influence of those funds in determining costs pursuant to subsection (2)(a) and (2)(b). The review also must analyze whether projects that are subsidized require the use of prevailing wage or should be required to in the future.

(f) a review of the benefits of net metering systems to customers who do not net meter, including a quantification of:

(i) avoided utility energy purchases, including at peak demand hours;

(ii) avoided transmission and distribution line losses;

(iii) avoided generation capacity investments or purchases;

(iv) avoided transmission and distribution capacity investments; and

(v) avoided pollution control costs;

(g) a review of the economic development impacts of net metering systems, including:

(i) a review of revenue generated by businesses that sell and install net metered systems in Montana;

(ii) analysis of employment statistics for businesses that sell and install net metered systems in Montana;

(iii) a review of tax revenue generated by net metering systems, including an analysis of the increased taxable value of residential and commercial properties with net metered systems; and

(iv) an estimation of energy savings attributable to net metering systems;

(h) a review of the impact of net metering on utility operations, including a review of:

(i) the ability of a utility to monitor, schedule, and dispatch net metered power; and

(ii) criteria for the economic dispatch of net metered power; and

(i) a review of the methodologies for valuing power including power produced by the net metering facility and transferred to the utility and power produced by the utility and sold to the person net metering.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 22, 2015

SENATE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE RESPONSIBLE DEVELOPMENT OF COAL RESOURCES AND COAL-BASED ELECTRICITY.

WHEREAS, coal represents the most abundant source of energy in the United States; and

WHEREAS, coal is one of the most reliable and affordable sources of fuel for electric generation; and

WHEREAS, consumers, businesses, communities, and service providers need affordable energy more than ever in this time of economic uncertainty and stand to benefit from affordable and reliable coal-based electricity; and

WHEREAS, the United States holds more coal reserves than any other nation, and Montana is home to the largest coal reserves in the United States with nearly one-third of the estimated recoverable reserves; and

WHEREAS, Montana's annual coal production is currently only 1/20 of 1% of estimated recoverable reserves, and at our current rate of production, it would take more than 1,600 years to exhaust Montana's coal reserves; and

WHEREAS, responsible development of Montana's coal resources will create thousands of new jobs and provide millions of dollars in tax revenue for state and local governments and schools; and

WHEREAS, the coal reserves in Montana can meet the demands of the domestic market and earn revenue for the state of Montana by being exported to foreign markets via West Coast ports; and

WHEREAS, coal-generated electricity has increased by 183% since 1970, while emissions from coal-based power plants have been reduced by 75% per generation unit; and

WHEREAS, Montana, the Treasure State, has abundant natural resources and produces valuable commodities from agriculture, mining, timber, energy, and manufacturing industries; and

WHEREAS, expanded, responsible development of Montana's natural resources would benefit every Montanan by creating thousands of new jobs, new economic opportunities, and billions of dollars in tax revenue for state and local governments and schools; and

WHEREAS, producers of Montana commodities need access to all markets, foreign and domestic, in order to grow, prosper, and achieve maximum profitability.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 64th Legislature supports the continued use and responsible development of coal-based power in the United States and supports the expansion of additional shipping capacity through new and existing ports in order to allow for the sale of Montana resources to emerging markets.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Energy, the Administrator of the United States Environmental Protection Agency, and the Governor of the State of Montana.

Adopted April 11, 2015

SENATE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA PROCLAIMING THE MONTH OF MAY 2015 AS AMYOTROPHIC LATERAL SCLEROSIS (ALS) AWARENESS MONTH AND URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO PROVIDE ADDITIONAL FUNDING FOR RESEARCH IN ORDER TO FIND A TREATMENT AND A CURE FOR AMYOTROPHIC LATERAL SCLEROSIS.

WHEREAS, amyotrophic lateral sclerosis or ALS is better known as Lou Gehrig's disease; and

WHEREAS, ALS is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

WHEREAS, the initial symptom of ALS is weakness of the skeletal muscles, especially those of the extremities; and

WHEREAS, as ALS progresses the patient experiences difficulty in swallowing, talking, and breathing; and

WHEREAS, ALS eventually causes muscles to atrophy, and the patient becomes a functional quadriplegic; and

WHEREAS, ALS does not affect a patient's mental capacity, and the patient remains alert and aware of the loss of motor functions and the inevitable outcome of continued deterioration and death; and

WHEREAS, on average, patients diagnosed with ALS only survive 2 to 5 years from the time of diagnosis; and

WHEREAS, ALS has no known cause, means of prevention, or cure; and

WHEREAS, research indicates that military veterans are approximately twice as likely to develop ALS as those who have not served in the military; and

WHEREAS, the Department of Veterans Affairs implemented regulations to establish a presumption of service connection for ALS, thereby presuming that the development of ALS was incurred or aggravated by a veteran's service in the military; and

WHEREAS, a national ALS patient registry, administered by the Centers for Disease Control and Prevention, is currently identifying cases of ALS in the United States and may become the single largest ALS research project ever created; and

WHEREAS, Amyotrophic Lateral Sclerosis Awareness Month increases the public's awareness of ALS patients' circumstances and acknowledges the terrible impact this disease has not only on the patient but on his or her family and the community and recognizes the research being done to eradicate this horrible disease.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature hereby proclaims the month of May, 2015, as Amyotrophic Lateral Sclerosis Awareness Month in Montana.

BE IT FURTHER RESOLVED, that the Legislature urges the President and Congress of the United States to enact legislation to provide additional funding for research in order to find a treatment and eventually a cure for amyotrophic lateral sclerosis.

Adopted April 11, 2015

SENATE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF COUNTY ROAD RIGHTS-OF-WAY ON STATE TRUST LAND.

WHEREAS, the Omnibus Enabling Act of 1889 and the Montana Constitution impose fiduciary responsibilities on the state with regard to state trust lands; and

WHEREAS, the Enabling Act granted sections of each township to the state "for the support of common schools" and Article X, section 11, of the Montana Constitution prohibits state trust land from being disposed of until the full market value of the land has been secured by the state; and

WHEREAS, county roads have existed on state trust land for years; and

WHEREAS, in some instances, counties have been granted easements by the Board of Land Commissioners for roads on state trust land, but in other instances, county roads were created on state trust land and are being used by the public without an easement having been obtained; and

WHEREAS, absence of a legal easement to cross state trust land is becoming a significant problem for some counties and for private property owners who rely on these roads for access to their property; and

WHEREAS, absence of a legal easement makes private property difficult to sell, and many claims made against title insurance companies deal with legal access; and

WHEREAS, in 1997, the Legislature enacted section 77-1-130, MCA, which was intended to allow individuals and counties to apply for and purchase easements on state trust land for a fraction of the fair market value; and

WHEREAS, in 1999, in a case cited as Montrust, Montanans for Responsible Use of the School Trust sued the state, claiming that full market value was not being obtained for easements on state trust land and the Montana Supreme Court agreed, declaring section 77-1-130, MCA, to be unconstitutional; and

WHEREAS, since the decision, section 77-1-130, MCA, has been amended and the Department of Natural Resources and Conservation is obligated to require payment of full market value of the land when granting easements; and

WHEREAS, many counties have neither the resources to identify all of the roads for which legal easements are required nor the money to pay for the easements; and

WHEREAS, despite efforts to identify state funding sources, fund transfer mechanisms, or other strategies to offset counties' obligations while remaining in compliance with the Montrust decision, an acceptable solution has not materialized.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review challenges counties encounter in identifying roads on state trust land, determining the legal status of the roads, and paying full market value for road rights-of-way on state trust land.

BE IT FURTHER RESOLVED, that the study examine the extent of the problem statewide as it relates to land valuation, county tax base, county budgets, and miles of county roads and identify options that may be pursued by counties or by the Legislature to resolve the legal status of roads on state trust land.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 21, 2015

SENATE JOINT RESOLUTION NO. 21

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF LOCAL FIRE PROTECTION AND EMERGENCY SERVICE ENTITIES AND FIREFIGHTER AND EMERGENCY MEDICAL TECHNICIAN BENEFITS.

WHEREAS, the Montana Legislature recognizes the invaluable public service provided by Montana's paid and volunteer firefighters and emergency medical technicians; and

WHEREAS, bills are introduced every session that would affect qualifications, duties, and benefits for paid and volunteer firefighters and emergency medical technicians; and

WHEREAS, legislation is also introduced that would affect the powers and duties of fire departments, fire districts, fire service areas, and fire companies; and

WHEREAS, the Department of Natural Resources and Conservation requires that counties provide workers' compensation insurance coverage for operators of firefighting apparatus provided to counties and assigned to fire agencies in the counties pursuant to agreements entered into as part of the State-County Cooperative Fire Protection Program; and

WHEREAS, many local fire agencies do not have the financial resources to comply with this requirement; and

WHEREAS, the powers, duties, and jurisdictions of local government fire agencies are varied and complex and warrant thorough analysis and understanding by the Legislature; and

WHEREAS, the Legislature recognizes that a comprehensive review of local fire protection, emergency services, and firefighter and emergency medical technician benefits is necessary to identify problems and consider potential solutions for provision of adequate, consistent, and coordinated local fire protection and emergency services and adequate, consistent, and coordinated benefits to paid and volunteer firefighters and emergency medical technicians who serve local governments and their citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to conduct a comprehensive study of local fire protection and emergency services, how those services are paid for, and benefits, including workers' compensation, disability, and retirement, provided to paid and volunteer firefighters and emergency medical technicians.

BE IT FURTHER RESOLVED, that the committee conducting the study:

(1) review the current structure and function of local fire protection agencies and emergency services, including municipal fire departments, rural fire districts, fire service areas, fire companies, and emergency medical technician services;

(2) review fire protection and emergency service coverage areas of the various local agencies compared to areas where the Department of Natural Resources and Conservation and federal agencies provide direct fire protection, identifying any areas where there is no local agency coverage;

(3) examine the sources of revenue for the various local fire protection and emergency service agencies and how residents served by local agencies are made aware of the agencies' operational status;

(4) review the role of the state's Disaster and Emergency Services Division with respect to local fire protection and emergency service agencies;

(5) review the benefits provided to paid and volunteer firefighters and emergency medical technicians and the financial capacity of local governments to provide those benefits;

(6) review legislation introduced during the 64th Legislature and previous legislative sessions intended to modify local fire protection and emergency services and firefighter and emergency medical technician duties, qualifications, and benefits, the reasons for the legislation, and the outcome of the legislation;

(7) examine the Department of Natural Resources and Conservation's State-County Cooperative Fire Protection Program, the agreements entered into between the state and counties, and the coordination between the state and local governments for wildland fire protection;

(8) examine the services that local government firefighters and emergency medical technicians provide and how those services are reimbursed by citizens, insurance companies, and state and federal agencies;

(9) examine the viability, necessity, and jurisdiction of the various local government fire protection entities provided for in state statute; and

(10) determine whether modifications to statutes or state or local policies are warranted to achieve adequacy, consistency, and coordination in local government fire protection and emergency services and in the benefits provided to paid and volunteer firefighters and emergency medical technicians.

BE IT FURTHER RESOLVED, that the committee solicit participation and input from local governments, paid firefighters, volunteer firefighters, representatives of firefighter organizations, representatives of the Montana Public Employees' Retirement Administration, the Department of Natural Resources and Conservation, the Department of Labor and Industry, the Department of Military Affairs' Disaster and Emergency Services Division, and any other entity that the committee considers to be appropriate.

BE IT FURTHER RESOLVED, that the interim committee to which the study is assigned prioritize the areas of study.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 21, 2015

SENATE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF GUARDIANSHIP OPTIONS FOR ELDERLY AND DISABLED INDIVIDUALS.

WHEREAS, the U.S. Census Bureau projects that the number of Americans 65 years of age and older will increase by 50% between now and the year 2030; and

WHEREAS, the Montana Department of Public Health and Human Services says that by 2030, Montana is expected to rank at least fifth in the nation in the percentage of residents over 65 years of age; and

WHEREAS, national studies predict that a significant percentage of older Americans will suffer from mental illness, traumatic brain injuries, dementia, and other mental impairments that will diminish their ability to care for themselves or to make decisions related to their health and well-being; and

WHEREAS, the Montana Legislature has enacted the Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act because these elderly and disabled individuals could be at greater risk for abuse, neglect, and exploitation; and

WHEREAS, Montana law allows for the appointment of guardians for individuals who are unable to understand, make, or communicate decisions about their care because of mental or physical impairments or chronic substance abuse; and

WHEREAS, no statewide training or standards exist for individuals appointed as guardians; and

WHEREAS, the availability and quality of guardianship services and programs may vary widely in different areas of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study whether guardianship proceedings, programs, and services in Montana are adequate to meet the needs of elderly and developmentally disabled individuals who may be vulnerable to abuse, neglect, or exploitation.

BE IT FURTHER RESOLVED, that the study review:

(1) Montana's existing guardianship statutes to determine if changes to the statutes could improve protections for elderly and disabled individuals;

(2) the guardianship services available to individuals through the Department of Public Health and Human Services;

(3) efforts at the local level to provide guardianship services;

(4) funding needs and availability for guardianship services, including an examination of existing and potential funding sources;

(5) efforts in other states to establish uniform, statewide guardianship programs or otherwise improve guardianship services; and

(6) recommendations of national groups that work on matters related to guardianship for vulnerable citizens.

BE IT FURTHER RESOLVED, that the study determine whether existing state and local programs provide adequate protections and services for individuals who may be at risk for abuse, neglect, or exploitation.

BE IT FURTHER RESOLVED, that the study include the Department of Public Health and Human Services, District Court judges, county attorneys, private attorneys, area agencies on aging, the Montana State Bar, and representatives of other statewide and local organizations that advocate on behalf of the elderly and individuals with intellectual and physical disabilities

or that represent Montana hospitals, health care providers, mental health care providers, and family members of persons with diminished capacity.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 23, 2015

SENATE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF SEXUAL ASSAULT IN MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 65TH LEGISLATURE.

WHEREAS, the Centers for Disease Control and Prevention reported in a 2010 survey of intimate partner and sexual violence that nearly 1 in 5 women and 1 in 71 men have been raped at some time in their lives and the United States Department of Justice reports that American Indians are 2.5 times more likely to experience sexual assault crimes than other races and that 1 in 3 American Indian women reports having been raped or having been the victim of an attempted rape in her lifetime; and

WHEREAS, the Montana Legislature has not had the opportunity to conduct a comprehensive and thorough review of Montana's sexual assault criminal code, regulations, and policies as individual statute changes have been made over the years by each legislative body; and

WHEREAS, the Montana Legislature recognizes the importance of agency, organizational, and citizen cooperation in preventing and responding to sexual violence in our communities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine sexual assault in Montana. The study should consider:

(1) current sexual assault criminal statutes, including state and federal code related to the investigation of, charging of, criminal proceedings related to, and sentencing of sexual assault-related crimes;

(2) current policies and practices of local, state, and public university law enforcement entities and the county attorneys' offices concerning investigating and prosecuting sexual assault crimes, as well as whether the entities and offices have adequate resources to investigate and prosecute sexual assault;

(3) societal attitudes and myths surrounding sexual assault and ways to better educate the public and potential jurors to overcome improper societal attitudes, improve victim experience, and promote a corresponding rise in convictions;

(4) whether and to what extent best-practices training is available to responding agencies, including but not limited to law enforcement, prosecution, corrections, judicial, and victim advocate agencies, as well as the opportunity to

develop specialized training for sexual assault response units, the use of multidisciplinary teams, and the information-sharing challenges that teams face and possible solutions to those challenges;

(5) current corrections and law enforcement agency policies and practices concerning the treatment, incarceration, registration, and supervision of offenders and emerging research on treatment for victims of sexual assault;

(6) measures to improve understanding of the inherent difficulties within the criminal justice system in responding to sexual assault; measures dedicated to reducing the prevalence of sexual assault; and tools to educate and improve community response to the issue of sexual assault;

(7) continuing jurisdictional factors in the system's response to sexual assault crimes on Montana's American Indian reservations, including coordination of the agencies involved;

(8) current jurisdictional factors in the system's response to sexual assault in state educational institutions, including an examination of how the requirements of Title IX of the United States Education Amendments of 1972 (codified at 20 U.S.C. §§ 1681-1688) interact with Montana's response; and

(9) the need for consistent data collection and analysis related to sexual assault in Montana, as compared to other jurisdictions within the United States.

BE IT FURTHER RESOLVED, that the study include updates from the Montana Attorney General's Office on its agreement with the United States Department of Justice and how the benefits resulting from the implementation of that agreement might translate into opportunities for statewide programming.

BE IT FURTHER RESOLVED, that the study involve the participation of local, university, and state agencies, tribal and federal governments and law enforcement agencies, advocacy organizations that work to prevent sexual assault, victims' advocacy groups, and other relevant stakeholders.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2016.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

Adopted April 20, 2015

Senate Resolutions

SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the following Senate Rules be adopted:

RULES OF THE MONTANA SENATE

CHAPTER 1
Administration

S10-10. Officers of the Senate. The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

S10-20. Term of office. The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

S10-30. President, President pro tempore, and other officers. (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator as President and a Senator as President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

S10-40. Voting by presiding officer. Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

S10-50. Presiding officer and duties. (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the President when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(6) The President shall approve the calendar for each legislative day.

(7) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(8) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(9) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

S10-60. Succession. (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the Senate have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature and wants to appoint an acting President during the President's absence, the President may do so, or the members of the Senate have the right to immediately nominate and elect an acting President of the President's caucus.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

S10-70. President-elect. The President-elect nominated by the appropriate party caucus held in accordance with section 5-2-201, MCA, has the responsibility and authority to assume the duties of President of the Senate.

S10-80. Legislative Administration Committee duties. (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

S10-90. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

(2) helping the President develop the calendar;

(3) assisting the President with program development, policy formation, and policy decisions;

(4) presiding over the majority caucus meetings; and

(5) other duties as assigned by the caucus.

S10-100. Majority Whip. The duties of the majority whip may include but are not limited to:

(1) assisting the majority leader;

(2) ensuring member attendance;

(3) counting votes;

(4) generally communicating the majority position; and

(5) other duties as assigned by the caucus.

S10-110. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

(1) developing the minority position;

(2) negotiating with the majority party;

(3) directing minority caucus activities on the chamber floor;

(4) leading debate for the minority; and

(5) other duties as assigned by the caucus.

S10-120. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

(1) assisting the minority leader on the floor;

(2) counting votes;

(3) ensuring attendance of minority party members; and

(4) other duties as assigned by the caucus.

S10-130. Senate employees. (1) In addition to the employees appointed by the President in accordance with section 5-2-221, MCA, the Senate shall employ staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) The Secretary of the Senate shall designate a secretary to take and prepare written minutes of committee meetings for each standing committee. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) The President, majority leader, and minority leader may each appoint a private secretary.

S10-140. Secretary of the Senate and duties. The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

(1) performing the duties prescribed by law or other provisions of these rules;

(2) serving as parliamentary advisor to the Senate;

(3) compiling and maintaining the calendar for approval by the President;

(4) keeping the leadership informed on the progress and workload of the Senate;

(5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;

(6) keeping and maintaining records of the Senate; and

(7) supervision of the Senate employees, except as otherwise provided.

S10-150. Sergeant-at-Arms duties. Under the direction of the President, the Sergeant-at-Arms shall:

(1) maintain order as directed by the President or chair of the Committee of the Whole;

(2) enforce the lobbying rules of the Senate;

(3) supervise the employees assigned to the Sergeant's office;

(4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;

(5) perform duties as required by other rules and the Senate.

S10-160. Legislative aides. Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

S10-170. Senate journal. (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal by the journal clerks trained by the Legislative Services Division under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

(a) committee reports;

(b) every motion, the name of the Senator presenting it, and its disposition;

(c) the introduction of legislation in the Senate;

(d) consideration of legislation subsequent to introduction;

(e) roll call votes;

(f) messages from the Governor and the House of Representatives;

(g) every amendment, the name of the Senator presenting it, and its disposition;

(h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and

(i) any other records the Senate directs by rule or action.

(4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and made available.

(5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.

(6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

CHAPTER 2
Decorum

S20-10. Questions of order — appeal. The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

S20-20. Violation of rules — call to order — appeal. (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority leader or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. Censure consists of an official public reprimand of a Senator for inappropriate behavior. The Senate shall act upon the recommendation of the Committee.

S20-30. Questions of privilege — restrictions. (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

S20-40. Recognition by chair. A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

S20-50. Floor privileges. (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) registered representatives of the media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1) or (2).

S20-60. Communications to Senate. A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

S20-70. Distribution of materials on floor — exception. (1) Subject to subsection (2), material may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

(2) Subsection (1) does not apply to material written by staff at the request of a Senator and placed on the Senator's desk.

CHAPTER 3
Committees

S30-10. Committee appointments. (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The minority leader shall designate the ranking minority member for each standing committee.

(4) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(5) The Senate may change the membership of any committee on 1 day's notice.

S30-20. Standing committees — classification. (1) The standing committees of the Senate are as follows:

(a) class one committees:

(i) Business, Labor, and Economic Affairs;

(ii) Finance and Claims;

(iii) Judiciary; and

(iv) Taxation;

(b) class two committees:

(i) Education and Cultural Resources;

(ii) Local Government;

(iii) Natural Resources;

(iv) Public Health, Welfare, and Safety; and

(v) State Administration;

(c) class three committees:

(i) Agriculture, Livestock, and Irrigation;

(ii) Energy and Telecommunications;

(iii) Fish and Game; and

(iv) Highways and Transportation; and

(d) on-call committees:

(i) Ethics;

(ii) Legislative Administration; and

(iii) Rules.

(2) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(3) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's

recommendations must be submitted to the leadership nominated or elected at the presession caucus provided for in 5-2-201.

S30-40. Ex officio members — quorum. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The majority leader and the minority leader are ex officio nonvoting members of all committees in order to establish a quorum.

S30-50. Chair's duties. (1) The chair of a committee is the presiding officer of that committee and is responsible for:

(a) maintaining order within the committee room and its environs;

(b) scheduling hearings and executive action;

(c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and

(d) authenticating committee reports by signing them and submitting them promptly to the Secretary of the Senate. The chair shall sign business reports reflecting action taken in each committee meeting that enable the preparation of committee minutes. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

S30-60. Meetings — notice — purpose — minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

(a) prior to the third legislative day;

(b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing;

(c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session; or

(d) due to appropriate circumstances.

(3) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(4) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

(5) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(6) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(7) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(8) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes; and

(f) all testimony and exhibits.

(9) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but shall take executive action and may report the bill to the Committee of the Whole.

(10) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(11) A bill may be rereferred at any time before its passage.

S30-70. Procedures — member privileges. (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a committee shall finally dispose of a bill without a hearing. Except as provided in S30-60(9), a bill may not be reported from a committee without a hearing.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all proposed changes; and

(d) a fiscal note, if required.

(6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the Senate that are formally adopted when the committee report is accepted by the Senate.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the Committee of the Whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chair;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form.

(14)Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

S30-80. Public testimony — decorum — time restrictions. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless

called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

S30-100. Pairs prohibited — absentee or proxy voting. Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia. Authorization for absentee or proxy voting must be reflected in the committee minutes.

S30-140. Reconsideration in committee. A committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

S30-150. Committee requested legislation. (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the drafting and introduction of legislation.

(b) The Finance and Claims Committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

S30-160. Ethics Committee. (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. The issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

(i) 2-2-103;

(ii) 2-2-104;

(iii) 2-2-111;

(iv) 2-2-112;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

(4) As provided in 2-2-112, a Senator may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.

CHAPTER 4
Legislation

S40-10. Types of legislation. The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator as chief sponsor. The types of legislation allowed include:

(1) bills of any subject, except appropriations;

(2) joint resolutions, which may be used for any purpose specified in Joint Rule 40-60; and

(3) simple resolutions, which may:

(a) adopt or amend Senate rules;

(b) provide for the internal affairs of the Senate;

(c) express confirmation of the Governor's appointments; or

(d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

S40-20. Introduction — first reading. (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation. Legislation properly introduced or received in the Senate must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a Senator may question adherence to rules. Acknowledgment by the Secretary of the Senate of receipt of legislation transmitted from the House commences the time limit for consideration of the legislation. All legislation received by the Senate may be referred to a committee prior to being read across the rostrum.

(2) Bills and resolutions preintroduced as provided in Joint Rule 40-40 may be assigned to committee and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

(4) The sponsor may ask the Legislative Services Division to change or correct a short title used on the bill status system.

S40-30. Additional sponsors. (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the additional sponsors will be forwarded to the Legislative Services Division with the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

S40-40. Reading limitations. (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee or withdrawn from a committee by motion, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole unless a printed version of an unamended bill is available.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

CHAPTER 5
Floor Action

S50-10. Attendance — mandatory voting — quorum. (1) Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

(2) A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, sec. 10(2)).

S50-20. Orders of business. After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

(1) communications and petitions;

(2) reports of standing committees;

(3) reports of select committees;

(4) messages from the Governor;

(5) messages from the House of Representatives;

(6) motions;

(7) first reading and commitment of bills;

(8) second reading of bills (Committee of the Whole);

(9) third reading of bills;

(10) unfinished business;

(11) special orders of the day; and

(12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

S50-30. Limitations on debate. A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

S50-40. Procedure upon offering a motion. (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

S50-50. Precedence of motions. (1) When a question is under debate only the following privileged and subsidiary motions may be made:

(a) to adjourn (nondebatable S50-60);

(b) for a call of the Senate (nondebatable S50-60);

(c) to recess (nondebatable S50-60);

(d) question of privilege;

(e) to lay on the table (nondebatable S50-60);

(f) for the previous question (nondebatable S50-60);

(g) to postpone to a certain day;

(h) to refer or commit;

(i) to amend; and

(j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration as provided in S50-90.

(4) A motion or proposition on a subject different from that under consideration may not be accepted unless a substitute motion is in order.

S50-60. Nondebatable motions. The following motions are not debatable:

(1) to adjourn;

(2) for a call of the Senate;

(3) to recess or rise;

(4) for parliamentary inquiry;

(5) for suspension of the rules;

(6) to lay on the table;

(7) for the previous question;

(8) to limit, extend the limits of, or to close debate;

(9) to amend an undebatable motion;

(10) to change a vote (S50-200);

(11) to pass business in Committee of the Whole;

(12) to take from the table;

(13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and

(14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

S50-70. Amending motions — restrictions. (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

S50-80. Previous question. (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary

motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise. The motion for the previous question is nondebatable as provided in S50-60(7).

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion regardless of whether debate on the main motion has occurred.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

S50-90. Reconsideration — time restrictions. (1) Subject to subsection (6), any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(2) A motion to reconsider must be disposed of when made unless a proper substitute motion is made and adopted.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

(6) If the Senate has adjourned for more than 2 days, then a motion to reconsider action taken on the last day the Senate was in session is in order on the day the Senate reconvenes or on the following legislative day.

S50-100. Dividing a question — segregation excluded. A Senator may request to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain. A vote is not required on a request to divide a question, but the chair may rule that a question is not divisible. The ruling of the chair may be appealed as provided in S20-10 and S20-20. For an appeal of a ruling of the presiding officer, the question for the Senate must be stated as, "Shall the ruling of the chair be upheld?". A motion to segregate pursuant to S50-140(4) is not a request to divide a question.

S50-110. Rules for questions or bills requiring other than a majority vote. (1) Except as provided in subsection (2), a question or bill requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question or bill prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule

does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

S50-120. Committee reports to Senate — reconsideration. (1) Reports of standing committees must be read on Order of Business No. 2, and, subject to subsection (4), debate may not be had on any report.

(2) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider as provided in S50-90. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. Subject to S50-90(6), the reconsideration motion must be made within 1 legislative day of the adoption of the committee report and is not in order if the bill has been considered in Committee of the Whole.

(4) (a) Subject to subsection (4)(b), the Rules Committee and conference committees may report at any time, except during a call of the Senate, when a vote is being taken, or during Committee of the Whole.

(b) The Rules Committee may report during Committee of the Whole on matters referred to the Committee by the Committee of the Whole.

S50-130. Conference committee — reports. (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

S50-140. Second reading — Committee of the Whole report — segregation — rejection. (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. The sponsor shall make an opening statement, proposed amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

S50-150. Committee of the Whole amendments. (1) All Committee of the Whole amendments must be prepared by the staff of the Legislative Services Division, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

S50-160. Motions in Committee of the Whole. (1) All proper motions on second reading are debatable unless specified in S50-60.

(2) The only motions in order during Committee of the Whole are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (House amendments to Senate legislation);

(c) amend;

(d) indefinitely postpone;

(e) pass consideration;

(f) change the order in which legislation is placed on the agenda (nondebatable S50-60(14));

(g) rise (nondebatable S50-60(3));

(h) rise and report progress and ask leave to sit again (nondebatable S50-60(3)); or

(i) rise and report (nondebatable S50-60(3)).

(3) The motions listed in subsection (2) may be made in descending order as listed.

S50-170. Committee of the Whole — generally. (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

S50-180. Voting on second reading — positive disposition of motions. (1) On Order of Business No. 8, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous voice vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

S50-190. Third reading procedure. (1) Unless rereferred to a committee by a majority vote after the adoption of the Committee of the Whole report but before moving to another order of business, all legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

S50-200. Senate voting — changing a vote — objection. (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

S50-210. Pairs. (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

S50-220. Call of the Senate. (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote of the members present.

S50-230. House amendments to Senate legislation. (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

S50-240. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

S50-250. Governor's veto. (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

CHAPTER 6
Rules

S60-10. Senate rules — amendment — adoption — suspension. (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

S60-20. Mason's Manual of Legislative Procedure. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate in all cases not covered by these rules.

CHAPTER 7
Nominations from the Governor

S70-10. Nominations. (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

S70-20. Receiving nominations — requesting bill drafts. (1) Nominations received from the Governor must be:

(a) received by the President;

(b) delivered to the Secretary of the Senate; and

(c) read under Order of Business No. 4, messages from the Governor.

(2) The Secretary shall distribute a copy of the list of nominations to each Senator.

(3) (a) The President of the Senate shall submit a bill draft request for a resolution for each nominee or each group of nominees read under Order of Business No. 4. These bill draft requests will not count against any bill draft request limit imposed on the President of the Senate.

(b) Prior to introduction of the resolution, the President of the Senate shall designate the appropriate committee chair to introduce the simple resolution.

S70-30. Committee process — preliminary reports — separate consideration. (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been given.

(2) Following the hearings for a group of nominees, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees. A preliminary standing committee report is not required for a resolution for a single nominee pursuant to subsection (5).

(3) (a) If a Senator wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.

(b) When a nominee has been separated at the request of a Senator or when a single nomination has been submitted to a committee, the committee chair shall submit a bill draft request on behalf of the committee for a simple resolution to include only the single or separated nominee. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(7) After the report has been read, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

Appendix A

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

(1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);

(2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);

(3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);

(4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(5) a motion to approve a bill to appropriate the principal of the coal trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths of each house);

(6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than those described in that section (three-fifths of each house);

(7) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature);

(8) an appeal of the ruling of the presiding officer pursuant to S20-10 (one Senator, seconded by two other Senators);

(9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds); and

(11) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths).

Adopted January 9, 2015

SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO AGRICULTURE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Gary Gollehon, Brady, Montana, appointed to a term ending May 1, 2017.

(2) As members of the Livestock Loss Board, in accordance with section 2-15-3110, MCA:

Elaine Allestad, Big Timber, Montana, appointed to a term ending January 1, 2019.

James Cross, Kalispell, Montana, appointed to a term ending January 1, 2017.

Larry Trexler, Hamilton, Montana, appointed to a term ending January 1, 2019.

Seth Wilson, Missoula, Montana, appointed to a term ending January 1, 2017.

(3) As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

James Parker, Fairfield, Montana, appointed to a term ending January 1, 2017.

Erik Somerfeld, Power, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 25, 2015

SENATE RESOLUTION NO. 4

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Tax Appeal Board, in accordance with section 15-2-101, MCA:

Ms. Valerie Balukas, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2015

SENATE RESOLUTION NO. 5

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENTS RELATED TO ENVIRONMENTAL QUALITY AND REVIEW MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED MAY 24, 2013, AND JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As Director of the Department of Environmental Quality, in accordance with sections 2-15-111 and 2-15-3501, MCA:

Tom Livers, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

(2) As members of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Marietta Canty, Clancy, Montana, appointed to a term ending January 1, 2017.

Joan Miles, Helena, Montana, appointed to a term ending January 1, 2017.

Robin Shropshire, Helena, Montana, appointed to a term ending January 1, 2017.

Christian Tweeten, Missoula, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 6

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE ALTERNATIVE HEALTH CARE BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Ingrid Lovitt-Abramson, Missoula, Montana, appointed to a term ending September 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2015

SENATE RESOLUTION NO. 7

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Gary Wolfe, Missoula, Montana, appointed to a term ending January 1, 2017.

(2) As members of the State Parks and Recreation Board, in accordance with section 2-15-3406, MCA:

Diane Conradi, Whitefish, Montana, appointed to a term ending January 1, 2017.

Douglas Smith, Plentywood, Montana, appointed to a term ending January 1, 2017.

Jeff Welch, Livingston, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 8

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE PARKS AND RECREATION BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 23, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA, as members of the State Parks and Recreation Board, in accordance with section 2-15-3406, MCA:

Mary Sexton, Choteau, Montana, appointed to a term ending January 1, 2019.

Tom Towe, Billings, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2015

SENATE RESOLUTION NO. 9

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CRIME CONTROL AND THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Danna Jackson, Helena, Montana, appointed to a term ending January 1, 2017.

Kelly McIntosh, Dillon, Montana, appointed to a term ending January 1, 2017.

(2) As members of the Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Gina Dahl, Havre, Montana, appointed to a term ending January 1, 2019.

William Dial, Whitefish, Montana, appointed to a term ending January 1, 2019.

Lewis Matthews, Wolf Point, Montana, appointed to a term ending January 1, 2019.

Kevin Olson, Helena, Montana, appointed to a term ending January 1, 2019.

Ryan Oster, Hamilton, Montana, appointed to a term ending January 1, 2019.

Tia Robbin, Kalispell, Montana, appointed to a term ending January 1, 2019.

Jesse Slaughter, Great Falls, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 10

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PARDONS AND PAROLE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 9, 2015, AND JANUARY 16, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Darryl Dupuis, Polson, Montana, appointed to a term ending January 1, 2018.

Sandy Heaton, Deer Lodge, Montana, appointed to a term ending January 1, 2017.

Mark Staples, Helena, Montana, appointed to a term ending January 1, 2019.

William "Bill" Lee McChesney, Miles City, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 11

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE CHIEF WATER JUDGE MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2015, TO THE SENATE.

WHEREAS, the Chief Justice of the Supreme Court of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Chief Justice pursuant to section 3-1-1013, MCA:

As Chief Water Judge of the State of Montana, in accordance with section 3-7-221, MCA:

William Russell McElyea, Bozeman, Montana, appointed to a term ending July 31, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 12

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HOUSING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 23, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Robert L. Gauthier, Ronan, Montana, appointed to a term ending January 1, 2019.

Jeanette McKee, Hamilton, Montana, appointed to a term ending January 1, 2019.

Sheila Marie Rice, Great Falls, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 13

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO MINING AND ENERGY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Dan Miles, Butte, Montana, appointed to a term ending January 1, 2017.

C.J. Stewart, Crow Agency, Montana, appointed to a term ending January 1, 2017.

John Williams, Colstrip, Montana, appointed to a term ending January 1, 2017.

(2) As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Mary Ellen Cremer, Big Timber, Montana, appointed to a term ending January 1, 2017.

Joe Michaletz, Helena, Montana, appointed to a term ending January 1, 2017.

(3) As a member of the Board of Oil and Gas Conservation in accordance with section 2-15-3303, MCA:

Peggy Nerud, Circle, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to 5-5-303, MCA.

Adopted March 25, 2015

SENATE RESOLUTION NO. 14

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO PUBLIC HEALTH MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA;

(1) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Mary Anne Brown, Great Falls, Montana, appointed to a term ending September 1, 2018.

Molly Danison, Missoula, Montana, appointed to a term ending September 1, 2017.

(2) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Lee Hudson, Great Falls, Montana, appointed to a term ending January 1, 2018.

Amy Pezo, Helena, Montana, appointed to a term ending January 1, 2017.

(3) As a member of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Alison Mizner, Kalispell, Montana, appointed to a term ending April 16, 2017.

(4) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Dale Chamberlain, Helena, Montana, appointed to a term ending April 1, 2019.

Diane Klemann, Billings, Montana, appointed to a term ending April 1, 2019.

Jennifer Porter, Bozeman, Montana, appointed to a term ending March 29, 2017.

(5) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Ed Eaton, Helena, Montana, appointed to a term ending July 1, 2017.

Helen Hallenbeck, Missoula, Montana, appointed to a term ending July 1, 2016.

Michael Spinti, Great Falls, Montana, appointed to a term ending July 1, 2017.

Mary Eve "Eve" Tolbert, Saint Ignatius, Montana, appointed to a term ending July 1, 2017.

(6) As members of the Board of Massage Therapy, in accordance with section 2-15-1782, MCA:

Anne Gergen, Broadus, Montana, appointed to a term ending May 6, 2017.

Kevin Kirwin, Billings, Montana, appointed to a term ending May 6, 2017.

Patricia Ryan, Whitefish, Montana, appointed to a term ending May 6, 2015.

(7) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Patricia Bollinger, Helena, Montana, appointed to a term ending September 1, 2017.

Ana Diaz, Billings, Montana, appointed to a term ending September 1, 2017.

Anna Earl, Chester, Montana, appointed to a term ending September 1, 2018.

Carole Erickson, Missoula, Montana, appointed to a term ending September 1, 2017.

Charles Farmer, Cut Bank, Montana, appointed to a term ending September 1, 2017.

James Feist, Bozeman, Montana, appointed to a term ending September 1, 2016.

Bruce Hayward, McAllister, Montana, appointed to a term ending September 1, 2018.

Kristin Spanjian, Billings, Montana, appointed to a term ending September 1, 2017.

Nathan Thomas, Missoula, Montana, appointed to a term ending September 1, 2018.

Dwight Thompson, Harlowton, Montana, appointed to a term ending September 1, 2017.

(8) As members of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Loren Hines, Whitehall, Montana, appointed to a term ending June 1, 2019.

Thomas Klotz, Glasgow, Montana, appointed to a term ending May 28, 2018.

(9) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Shari Brownback, Helena, Montana, appointed to a term ending July 1, 2016.

Thomas Glover, Great Falls, Montana, appointed to a term ending July 1, 2018.

Greg Kohn, Billings, Montana, appointed to a term ending July 1, 2018.

Lanette Perkins, Hardin, Montana, appointed to a term ending July 1, 2018.

Darlene "Yolanda" Schulz, Deer Lodge, Montana, appointed to a term ending July 1, 2018.

Sharon Sweeney Fee, Livingston, Montana, appointed to a term ending July 1, 2017.

(10) As a member of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Nathan Naprstek, Bozeman, Montana, appointed to a term ending December 31, 2018.

(11) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Starla Blank, Clancy, Montana, appointed to a term ending July 1, 2019.

Rebecca Deschamps, Missoula, Montana, appointed to a term ending July 1, 2019.

Rebekah Matovich, Columbus, Montana, appointed to a term ending July 1, 2018.

Charmell Owens, Hamilton, Montana, appointed to a term ending July 1, 2018.

(12) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Christian Appel, Bozeman, Montana, appointed to a term ending July 1, 2015.

Susan Michels, Great Falls, Montana, appointed to a term ending July 1, 2016.

Brian Miller, Kalispell, Montana, appointed to a term ending July 1, 2017.

(13) As members of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

James English, Bozeman, Montana, appointed to a term ending September 1, 2018.

James Murphey, Bozeman, Montana, appointed to a term ending September 1, 2019.

Paul Silverman, Missoula, Montana, appointed to a term ending September 1, 2019.

(14) As a member of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Marianne Roose, Eureka, Montana, appointed to a term ending January 1, 2017.

(15) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Janet Fuller, Anaconda, Montana, appointed to a term ending July 1, 2017.

Mike Nielsen, Billings, Montana, appointed to a term ending July 1, 2016.

(16) As a member of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

William Carmichael, Great Falls, Montana, appointed to a term ending January 1, 2019.

(17) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Susan Brueggeman, Polson, Montana, appointed to a term ending July 1, 2017.

Eugene Pizzini, Helena, Montana, appointed to a term ending July 1, 2017.

Gene Townsend, Three Forks, Montana, appointed to a term ending July 1, 2017.

James Zabrocki, Miles City, Montana, appointed to a term ending July 1, 2016.

(18) As members of the Board of Social Work Examiners and Professional Counselors, in accordance with section 2-15-1744, MCA:

Vonnie Brown, Great Falls, Montana, appointed to a term ending January 1, 2017.

Peter Degel, Helena, Montana, appointed to a term ending January 1, 2019.

Kimberly Gardner, Helena, Montana, appointed to a term ending January 1, 2017.

Cathy Jenni, Missoula, Montana, appointed to a term ending January 1, 2017.

Henry Pretty on Top, Lodge Grass, Montana, appointed to a term ending January 1, 2017.

Carol Staben Burroughs, Bozeman, Montana, appointed to a term ending January 1, 2019.

B.A. "Doc" Tweedy, Helena, Montana, appointed to a term ending January 1, 2019.

(19) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Sharon Dinstel, Colstrip, Montana, appointed to a term ending December 31, 2016.

Lucy Hart Paulson, Missoula, Montana, appointed to a term ending December 31, 2016.

Richard Turner, Big Timber, Montana, appointed to a term ending December 31, 2016.

(20) As a member of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Lance Hughes, Hobson, Montana, appointed to a term ending July 31, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 31, 2015

SENATE RESOLUTION NO. 15

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE THIRTEENTH JUDICIAL DISTRICT COURT AND THE MONTANA WORKERS' COMPENSATION COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 3-1-1010, MCA:

As District Judge of the Thirteenth Judicial District of the State of Montana, Michael Glen Moses, Billings, Montana.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 2-15-1707, MCA:

As Workers' Compensation Court Judge, David Michael Sandler, Kalispell, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 16

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC ASSISTANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 23, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Helen Schmitt, Sidney, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2015

SENATE RESOLUTION NO. 17

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

A. Christopher Edwards, Billings, Montana, appointed to a term ending January 1, 2019.

Fred Lark, Lewistown, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 19

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Janene Caywood, Missoula, Montana, appointed to a term ending July 1, 2018.

James Court, Billings, Montana, appointed to a term ending July 1, 2019.

George Dennison, Missoula, Montana, appointed to a term ending July 1, 2017.

A. Clifford Edwards, Billings, Montana, appointed to a term ending July 1, 2019.

Ed Jasmin, Helena, Montana, appointed to a term ending July 1, 2018.

Jude Sheppard, Chinook, Montana, appointed to a term ending July 1, 2015.

James Utterback, Helena, Montana, appointed to a term ending July 1, 2019.

(2) As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Mary Jo Bremner, Browning, Montana, appointed to a term ending February 1, 2021.

(3) As a member of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Tracy Linder, Molt, Montana, appointed to a term ending February 1, 2017.

(4) As members of the Board of Regents of Higher Education, in accordance with section 2-15-1508, MCA:

Fran Albrecht, Missoula, Montana, appointed to a term ending February 1, 2019.

William "Bill" Johnstone, Bozeman, Montana, appointed to a term ending February 1, 2017.

Martha Sheehy, Billings, Montana, appointed to a term ending February 1, 2021.

Mariah Williams, Missoula, Montana, appointed to a term ending June 30, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 31, 2015

SENATE RESOLUTION NO. 20

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 23, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Darlene Schottle, Bigfork, Montana, appointed to a term ending February 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 25, 2015

SENATE RESOLUTION NO. 21

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Mark Kuipers, Missoula, Montana, appointed to a term ending February 1, 2020.

Lynne Montague, Billings, Montana, appointed to a term ending February 1, 2020.

Rob Quist, Kalispell, Montana, appointed to a term ending February 1, 2020.

Jean Steele, Hamilton, Montana, appointed to a term ending February 1, 2020.

Youpa Stein, Missoula, Montana, appointed to a term ending February 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 31, 2015

SENATE RESOLUTION NO. 22

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Tax Appeal Board, in accordance with section 15-2-101, MCA:

Steve Doherty, Missoula, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 10, 2015

SENATE RESOLUTION NO. 23

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF RADIOLOGIC TECHNOLOGISTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 13, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Jeffry Lindenbaum, Billings, Montana, appointed to a term ending July 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2015

SENATE RESOLUTION NO. 24

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 13, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Thomas Minckler, Billings, Montana, appointed to a term ending July 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 31, 2015

SENATE RESOLUTION NO. 25

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE MONTANA SUPREME COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 3-1-1011, MCA:

As Associate Justice of the Montana Supreme Court, James Jeremiah Shea, Helena, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 31, 2015

SENATE RESOLUTION NO. 26

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF LIVESTOCK MADE BY THE GOVERNOR AND SUBMITTED IN WRITTEN COMMUNICATION DATED FEBRUARY 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

As a member of the Montana Board of Livestock, in accordance with 2-15-3102:

Nina Baucus, Wolf Creek, Montana, appointed to a term ending March 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 13, 2015

SENATE RESOLUTION NO. 27

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF ASSOCIATE WATER JUDGE MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED BY

WRITTEN COMMUNICATION DATED JANUARY 13, 2015, TO THE SENATE.

WHEREAS, the Chief Justice of the Supreme Court of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Chief Justice pursuant to section 3-1-1013, MCA:

As Associate Water Judge of the State of Montana, in accordance with section 3-7-221, MCA:

Douglas John Ritter, Bozeman, Montana, appointed to a term ending June 30, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 25, 2015

SENATE RESOLUTION NO. 28

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CRIME CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Laurie Barron, Whitefish, Montana, appointed to a term ending January 1, 2019.

Mike Batista, Helena, Montana, appointed to a term ending January 1, 2019.

Brenda Desmond, Missoula, Montana, appointed to a term ending January 1, 2019.

William Hooks, Helena, Montana, appointed to a term ending January 1, 2019.

Richard Kirn, Poplar, Montana, appointed to a term ending January 1, 2019.

Beth McLaughlin, Helena, Montana, appointed to a term ending January 1, 2019.

Roxanne Ross, Helena, Montana, appointed to a term ending January 1, 2019.

Angela Russell, Lodge Grass, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 25, 2015

SENATE RESOLUTION NO. 29

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC ACCOUNTANTS AND THE STATE BANKING BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Linda Harris, Absarokee, Montana, appointed to a term ending July 1, 2017.

Wayne Hintz, Helena, Montana, appointed to a term ending July 1, 2018.

Mike Huotte, Anaconda, Montana, appointed to a term ending July 1, 2018.

Kathy Van Dyke, Bozeman, Montana, appointed to a term ending July 1, 2018.

Daniel Vuckovich, Great Falls, Montana, appointed to a term ending July 1, 2017.

(2) As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Maureen Fleming, Missoula, Montana, appointed to a term ending July 1, 2017.

Bart Langemeier, Bridger, Montana, appointed to a term ending July 1, 2016.

Amy Rapp, Great Falls, Montana, appointed to a term ending July 1, 2016.

Josh Webber, Denton, Montana, appointed to a term ending July 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 30

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED MARCH 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA, as a member of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Richard Kerstein, Scobey, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2015

SENATE RESOLUTION NO. 31

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA, as a member of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Dan Vermillion, Livingston, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2015

SENATE RESOLUTION NO. 32

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENTS TO THE BOARD OF VETERINARY MEDICINE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Dr. Jean Lindley, Miles City, Montana, appointed to a term ending July 31, 2015.

Dr. Paul W. McCann, Havre, Montana, appointed to a term ending August 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 33

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF COUNTY PRINTING AND THE MONTANA FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of County Printing, in accordance with section 2-15-1026, MCA:

Carol Brooker, Thompson Falls, Montana, appointed to a term ending April 1, 2015.

Laura Obert, Townsend, Montana, appointed to a term ending April 1, 2015.

Scott Turner, Billings, Montana, appointed to a term ending April 1, 2015.

Roger Wagner, Nashua, Montana, appointed to a term ending April 1, 2015.

Milton Wester, Laurel, Montana, appointed to a term ending April 1, 2015.

(2) As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Joe Quilici, Butte, Montana, appointed to a term ending January 1, 2019.

Kim Rickard, Townsend, Montana, appointed to a term ending January 1, 2019.

Matthew Thiel, Missoula, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 34

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Teresa Cohea, Helena, Montana, appointed to a term ending January 1, 2019.

Karl Englund, Missoula, Montana, appointed to a term ending January 1, 2019.

Quint Nyman, Helena, Montana, appointed to a term ending January 1, 2019.

Jon Satre, Helena, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 35

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF LABOR APPEALS, THE BOARD OF PERSONNEL APPEALS, AND THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 9, 2015, AND FEBRUARY 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Labor Appeals, in accordance with section 2-15-1704, MCA:

Brian Boland, Great Falls, Montana, appointed to a term ending January 1, 2017.

Jerry Driscoll, Billings, Montana, appointed to a term ending January 1, 2019.

John Hart, Missoula, Montana, appointed to a term ending January 1, 2017.

Sara Novak, Anaconda, Montana, appointed as an alternate board member to a term ending January 1, 2017.

(2) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Steven R. Johnson, Missoula, Montana, appointed to a term ending January 1, 2019.

LeRoy Schramm, Helena, Montana, as a substitute member, appointed to a term ending January 1, 2019.

James D. Soumas, Billings, Montana, appointed to a term ending January 1, 2019.

Amy Verlanic, Anaconda, Montana, as a substitute member, appointed to a term ending January 1, 2019.

(3) As members of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Eldena Bear Don't Walk, St. Ignatius, Montana, appointed to a term ending January 1, 2019.

Ronda Howlett, Arlee, Montana, appointed to a term ending January 1, 2017.

Sheri Sprigg, Helena, Montana, appointed to a term ending January 1, 2019.

Dennis Taylor, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 36

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS AND THE BOARD OF PRIVATE SECURITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 9, 2015, AND FEBRUARY 6, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Dale Nelson, Great Falls, Montana, appointed to a term ending April 1, 2018.

Bayliss Ward, Bozeman, Montana, appointed to a term ending April 1, 2017.

(2) As members of the Board of Private Security, in accordance with section 2-15-1781, MCA:

Dirk Bauwens, Billings, Montana, appointed to a term ending August 1, 2016.

Holly Dershem-Bruce, Glendive, Montana, appointed to a term ending August 1, 2017.

Charles Pesola, Kalispell, Montana, appointed to a term ending August 1, 2015.

James Thomas, Canyon Creek, Montana, appointed to a term ending August 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 37

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF BARBERS AND COSMETOLOGISTS AND THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Connie Leistiko, Kalispell, Montana, appointed to a term ending October 1, 2018.

Wendell Petersen, Missoula, Montana, appointed to a term ending October 1, 2018.

Sherry Wieckowski, Thompson Falls, Montana, appointed to a term ending October 1, 2018.

(2) As members of the Board of Private Alternative Adolescent Residential or Outdoor Programs, in accordance with section 2-15-1745, MCA:

Pamela Carbonari, Kalispell, Montana, appointed to a term ending July 1, 2017.

Penny James, Trout Creek, Montana, appointed to a term ending July 1, 2017.

Rick Johnson, Kalispell, Montana, appointed to a term ending July 1, 2017.

John Santa, Marion, Montana, appointed to a term ending July 1, 2017.

Trudi Schmidt, Great Falls, Montana, appointed to a term ending July 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments

and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 38

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PLUMBERS, THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, AND THE STATE ELECTRICAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Donna Paulson, Great Falls, Montana, appointed to a term ending May 4, 2017.

Timothy Regan, Miles City, Montana, appointed to a term ending May 1, 2018.

Sean Smith, Anaconda, Montana, appointed to a term ending May 1, 2018.

(2) As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Ronald Drake, Helena, Montana, appointed to a term ending July 1, 2018.

David Elias, Anaconda, Montana, appointed to a term ending July 1, 2018.

Wallace Gladstone, Billings, Montana, appointed to a term ending July 1, 2017.

Hal Jacobson, Helena, Montana, appointed to a term ending July 1, 2018.

Byron Stahly, Helena, Montana, appointed to a term ending July 1, 2017.

(3) As members of the State Electrical Board, in accordance with section 2-17-1764, MCA:

John Gordon, Butte, Montana, appointed to a term ending July 1, 2018.

Rick Hutchinson, Black Eagle, Montana, appointed to a term ending July 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 39

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF RESEARCH AND COMMERCIALIZATION TECHNOLOGY AND THE BOARD OF DIRECTORS OF THE STATE COMPENSATION INSURANCE FUND MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

James "Jim" Davison, Anaconda, Montana, appointed to a term ending July 1, 2015.

(2) As members of the Board of Directors of the State Compensation Insurance Fund, in accordance with section 2-15-1019, MCA:

Bruce Mihelish, Lolo, Montana, appointed to a term ending April 28, 2017.

Richard Miltenberger, Helena, Montana, appointed to a term ending April 28, 2017.

Lynda Moss, Billings, Montana, appointed to a term ending April 28, 2017.

Lance Zanto, Helena, Montana, appointed to a term ending April 28, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 40

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF REAL ESTATE APPRAISERS AND THE BOARD OF REALTY REGULATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Jeffrey Fleming, Huntley, Montana, appointed to a term ending May 1, 2016.

Peter Fontana, Great Falls, Montana, appointed to a term ending May 1, 2016.

George Luther, Miles City, Montana, appointed to a term ending May 1, 2016.

George Simek, Billings, Montana, appointed to a term ending May 1, 2017.

Thomas Stevens, Missoula, Montana, appointed to a term ending May 1, 2017.

(2) As members of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Carlie Boland, Great Falls, Montana, appointed to a term ending May 1, 2017.

Richard "Ric" Smith, Polson, Montana, appointed to a term ending May 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 41

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF FUNERAL SERVICE AND THE BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

(1) As members of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

Donna Amaro, Helena, Montana, appointed to a term ending July 1, 2019.

James Axelson, Butte, Montana, appointed to a term ending July 1, 2017.

Steven Schnider, Great Falls, Montana, appointed to a term ending July 1, 2018.

Todd Stevenson, Miles City, Montana, appointed to a term ending July 1, 2017.

Michael Thompson, Ronan, Montana, appointed to a term ending July 1, 2015.

(2) As a member of the Board of Horseracing, in accordance with section 2-15-1809, MCA:

Susan Egbert, Helena, Montana, appointed to a term ending January 20, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments

and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 42

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Robert F. Buckles, Bozeman, Montana, appointed to a term ending January 1, 2017.

Daniel Hargrove, Billings, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 43

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED IN WRITTEN COMMUNICATION DATED MARCH 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

As members of the Board of Oil and Gas Conservation, in accordance with 2-15-3303, MCA:

Steven Durrett, Billings, Montana, appointed to a term ending January 1, 2019.

Ronald Efta, Wibaux, Montana, appointed to a term ending January 1, 2019.

Paul Gatzemeier, Billings, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 44

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE PARKS AND RECREATION BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 23, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Parks and Recreation Board, in accordance with section 2-15-3406, MCA:

Tom Towe, Billings, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2015

SENATE RESOLUTION NO. 46

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Warren Dupuis, Helena, Montana, appointed to a term ending April 1, 2019.

Maggie Peterson, Anaconda, Montana, appointed to a term ending April 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 47

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 9, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Shawn Backbone, Crow Agency, Montana, appointed to a term ending August 1, 2017.

Byron Erickson, Three Forks, Montana, appointed to a term ending August 1, 2018.

Casinda "Casey" Jourdan, Billings, Montana, appointed to a term ending August 1, 2018.

Richard Juvik, Helena, Montana, appointed to a term ending August 1, 2015.

Ronald Milam, Missoula, Montana, appointed to a term ending August 1, 2018.

Clarence Sivertsen, Belt, Montana, appointed to a term ending August 1, 2017.

Brenda York, Belgrade, Montana, appointed to a term ending August 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 48

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF DENTISTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Dr. George Johnston, Dillon, Montana, appointed to a term ending April 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 49

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF NURSING HOME ADMINISTRATORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 20, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Kathryn R. Beaty, Hamilton, Montana, appointed to a term ending June 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution fo the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2015

SENATE RESOLUTION NO. 50

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT RELATED TO THE BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 27, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

As a member of the Board of Horseracing, in accordance with section 2-15-1809, MCA:

John Hayes, Great Falls, Montana, appointed to a term ending January 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 51

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT RELATED TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 27, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Judy P. Tureck, Coffee Creek, Montana, appointed to a term ending May 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2015

SENATE RESOLUTION NO. 52

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF LIVESTOCK MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 3, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Brett DeBruycker, Dutton, Montana, reappointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 20, 2015

SENATE RESOLUTION NO. 53

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF POLITICAL PRACTICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MAY 20, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

As the Commissioner of Political Practices, in accordance with 13-37-104, MCA:

Mr. Jonathan Motl, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2015

SENATE RESOLUTION NO. 54

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF RESEARCH AND COMMERCIALIZATION TECHNOLOGY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 3, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

Prairie Big Horn, Lolo, Montana, appointed to a term ending July 1, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 55

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 3, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Chuck Tooley, Billings, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 56

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 10, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

Daniel Belcourt, Missoula, Montana, appointed to a term ending January 1, 2019.

Carol Lambert, Broadus, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 57

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF OPTOMETRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 10, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Optometry, in accordance with section 2-17-1736, MCA:

Pete Fontana, Great Falls, Montana, appointed to a term ending April 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 58

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CLINICAL LABORATORY SCIENCE PRACTITIONERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 10, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Carl Donovan, Great Falls, Montana, appointed to a term ending April 1, 2019.

Matthew Kalanick, Great Falls, Montana, appointed to a term ending April 1, 2019.

Vicki A. Rice, Helena, Montana, appointed to a term ending April 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2015

SENATE RESOLUTION NO. 59

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF LIVESTOCK MADE BY THE GOVERNOR AND SUBMITTED IN WRITTEN COMMUNICATION DATED APRIL 17, 2015, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

As a member of the Montana Board of Livestock, in accordance with 2-15-3102:

Lila V. Taylor, Busby, Montana, appointed to a term ending March 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 64th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2015

TABLES

Code Sections Affected
Session Laws Affected
Senate Bill to Chapter Number
House Bill to Chapter Number
Chapter Number to Bill Number
Effective Dates by Chapter Number
Effective Dates by Date
Session Law to Code

CODE SECTIONS AFFECTED

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. All other substantive changes are reflected. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii).

Title-Chapter-Section	Action	Chapter	Bill Number
1-1-411	amended	Ch. 285	HB 89
1-1-523	enacted	Ch. 257	HB 460
1-1-524	enacted	Ch. 243	HB 578
1-1-531	enacted	Ch. 321	SB 176
1-1-541	enacted	Ch. 411	HB 211
1-5-401	repealed	Ch. 391	SB 306
1-5-402	repealed	Ch. 391	SB 306
1-5-403	repealed	Ch. 391	SB 306
1-5-404	repealed	Ch. 391	SB 306
1-5-405	repealed	Ch. 391	SB 306
1-5-406	repealed	Ch. 391	SB 306
1-5-407	repealed	Ch. 391	SB 306
1-5-408	repealed	Ch. 391	SB 306
1-5-409	repealed	Ch. 391	SB 306
1-5-415	repealed	Ch. 391	SB 306
1-5-416	repealed	Ch. 391	SB 306
1-5-417	repealed	Ch. 391	SB 306
1-5-418	repealed	Ch. 391	SB 306
1-5-419	repealed	Ch. 391	SB 306
1-5-420	repealed	Ch. 391	SB 306
1-5-601	amended	Ch. 391	SB 306
1-5-602	amended	Ch. 391	SB 306
1-5-603	amended	Ch. 391	SB 306
1-5-604	amended	Ch. 391	SB 306
1-5-605	amended	Ch. 391	SB 306
1-5-606	amended	Ch. 391	SB 306
1-5-607	amended	Ch. 391	SB 306
1-5-608	amended	Ch. 391	SB 306
1-5-609	amended	Ch. 391	SB 306
1-5-610	amended	Ch. 391	SB 306
1-5-611	amended	Ch. 391	SB 306
1-5-615	enacted	Ch. 391	SB 306
1-5-616	enacted	Ch. 391	SB 306
1-5-617	enacted	Ch. 391	SB 306
1-5-618	enacted	Ch. 391	SB 306
1-5-619	enacted	Ch. 391	SB 306
1-5-620	enacted	Ch. 391	SB 306
1-5-621	enacted	Ch. 391	SB 306
1-5-622	enacted	Ch. 391	SB 306
1-5-623	enacted	Ch. 391	SB 306
1-5-624	enacted	Ch. 391	SB 306
1-5-625	enacted	Ch. 391	SB 306
1-5-626	enacted	Ch. 391	SB 306
1-5-627	enacted	Ch. 391	SB 306
1-5-628	enacted	Ch. 391	SB 306
2-2-106	amended	Ch. 156	SB 89
2-2-121	amended	Ch. 259	SB 289
2-3-114	amended	Ch. 266	HB 447
2-3-212	amended	Ch. 348	HB 123
2-3-214	enacted	Ch. 133	SB 124
2-3-221	amended (void - sec. 63, Ch. 348)	Ch. 310	HB 448
	amended	Ch. 348	HB 123

2-3-301	amended	Ch. 348	HB 123
2-4-101	amended	Ch. 320	SB 123
2-4-102	amended	Ch. 64	HB 128
2-6-101	repealed	Ch. 348	HB 123
2-6-102	repealed	Ch. 348	HB 123
2-6-103	repealed	Ch. 348	HB 123
2-6-104	repealed	Ch. 348	HB 123
2-6-105	repealed	Ch. 348	HB 123
2-6-106	repealed	Ch. 348	HB 123
2-6-107	repealed	Ch. 348	HB 123
2-6-108	repealed	Ch. 348	HB 123
2-6-109	repealed	Ch. 348	HB 123
2-6-110	repealed	Ch. 348	HB 123
2-6-111	repealed	Ch. 348	HB 123
2-6-112	repealed	Ch. 348	HB 123
2-6-201	repealed	Ch. 348	HB 123
2-6-202	repealed	Ch. 348	HB 123
2-6-203	repealed	Ch. 348	HB 123
2-6-204	repealed	Ch. 348	HB 123
2-6-205	repealed	Ch. 348	HB 123
2-6-206	repealed	Ch. 348	HB 123
2-6-207	repealed	Ch. 348	HB 123
2-6-208	repealed	Ch. 348	HB 123
2-6-211	repealed	Ch. 348	HB 123
2-6-212	repealed	Ch. 348	HB 123
2-6-213	repealed	Ch. 348	HB 123
2-6-214	repealed	Ch. 348	HB 123
2-6-301	repealed	Ch. 348	HB 123
2-6-302	repealed	Ch. 348	HB 123
2-6-303	repealed	Ch. 348	HB 123
2-6-304	repealed	Ch. 348	HB 123
2-6-307	repealed	Ch. 348	HB 123
2-6-401	repealed	Ch. 348	HB 123
2-6-402	repealed	Ch. 348	HB 123
2-6-403	repealed	Ch. 348	HB 123
2-6-404	repealed	Ch. 348	HB 123
2-6-405	repealed	Ch. 348	HB 123
2-6-501	amended	Ch. 62	HB 74
	repealed	Ch. 348	HB 123
2-6-502	repealed	Ch. 348	HB 123
2-6-503	repealed	Ch. 348	HB 123
2-6-504	amended	Ch. 62	HB 74
	repealed	Ch. 348	HB 123
2-6-1001	enacted	Ch. 348	HB 123
2-6-1002	enacted	Ch. 348	HB 123
2-6-1003	enacted	Ch. 348	HB 123
2-6-1006	enacted	Ch. 348	HB 123
2-6-1007	enacted	Ch. 348	HB 123
2-6-1008	enacted	Ch. 348	HB 123
2-6-1009	enacted	Ch. 348	HB 123
2-6-1012	enacted	Ch. 348	HB 123
2-6-1013	enacted	Ch. 348	HB 123
2-6-1014	enacted	Ch. 348	HB 123
2-6-1017	enacted	Ch. 348	HB 123
2-6-1020	enacted	Ch. 348	HB 123
2-6-1101	enacted	Ch. 348	HB 123
2-6-1102	enacted	Ch. 348	HB 123
2-6-1103	enacted	Ch. 348	HB 123
2-6-1107	enacted	Ch. 348	HB 123
2-6-1108	enacted	Ch. 348	HB 123
2-6-1109	enacted	Ch. 348	HB 123
2-6-1112	enacted	Ch. 348	HB 123
2-6-1113	enacted	Ch. 348	HB 123

2-6-1114	enacted	Ch. 348	HB 123
2-6-1201	enacted	Ch. 348	HB 123
2-6-1202	enacted	Ch. 348	HB 123
2-6-1205	enacted	Ch. 348	HB 123
2-6-1501	enacted	Ch. 348	HB 123
2-6-1502	enacted	Ch. 348	HB 123
2-6-1503	enacted	Ch. 348	HB 123
2-7-501	amended	Ch. 169	HB 44
2-7-503	amended	Ch. 11	HB 65
	amended	Ch. 262	HB 334
2-8-304	amended	Ch. 77	SB 63
2-9-101	amended	Ch. 262	HB 334
2-9-220	enacted	Ch. 127	HB 354
2-15-122	amended	Ch. 361	SB 157
2-15-149	amended	Ch. 238	HB 331
2-15-243	enacted	Ch. 445	SB 261
2-15-406	enacted	Ch. 348	HB 123
2-15-1311	amended	Ch. 82	SB 95
2-15-1704	amended	Ch. 132	SB 105
2-15-1734	amended	Ch. 56	SB 81
2-15-1737	amended	Ch. 56	SB 81
2-15-1740	amended	Ch. 56	SB 81
2-15-1744	amended	Ch. 130	SB 22
	amended	Ch. 288	HB 358
2-15-1747	amended	Ch. 15	HB 81
2-15-1756	amended	Ch. 169	HB 44
	amended	Ch. 427	HB 560
2-15-1757	amended	Ch. 56	SB 81
2-15-1773	amended	Ch. 56	SB 81
	amended	Ch. 341	SB 181
2-15-1816	amended	Ch. 316	HB 542
2-15-2017	amended	Ch. 348	HB 123
2-15-2033	enacted	Ch. 13	HB 75
2-15-2302	amended	Ch. 89	HB 19
2-15-2511	amended	Ch. 58	SB 117
2-15-3006	repealed	Ch. 47	SB 78
2-15-3110	amended	Ch. 55	SB 65
	amended	Ch. 349	HB 145
2-16-622	amended	Ch. 49	HB 84
2-17-506	amended	Ch. 106	HB 296
2-17-512	amended	Ch. 106	HB 296
2-17-513	amended	Ch. 237	HB 288
	amended	Ch. 274	SB 220
2-17-516	amended	Ch. 237	HB 288
2-17-531	repealed	Ch. 237	HB 288
2-17-541	repealed	Ch. 106	HB 296
2-17-542	repealed	Ch. 106	HB 296
2-17-543	amended	Ch. 106	HB 296
2-17-544	enacted	Ch. 106	HB 296
2-17-545	enacted	Ch. 106	HB 296
2-17-546	amended	Ch. 55	SB 65
2-17-807	amended	Ch. 367	SB 364
2-17-808	amended	Ch. 228	HB 431
2-17-1102	amended	Ch. 274	SB 220
2-17-1103	amended	Ch. 274	SB 220
2-17-1105	repealed	Ch. 274	SB 220
2-18-301	amended	Ch. 438	SB 418
2-18-303	amended	Ch. 438	SB 418
2-18-703	amended	Ch. 438	SB 418
2-18-704	amended	Ch. 256	HB 318
2-18-812	amended	Ch. 438	SB 418
3-1-702	amended	Ch. 376	HB 612
3-1-1013	amended	Ch. 49	HB 84

3-6-201	amended	Ch. 49	HB 84	
3-7-211	amended	Ch. 294	SB 262	
3-10-101	amended	Ch. 49	HB 84	
3-10-201	amended	Ch. 87	SB 72	
3-11-101	amended	Ch. 49	HB 84	
3-15-402	amended	Ch. 88	SB 139	
5-2-204	enacted	Ch. 452	SB 283	
5-2-301	amended	Ch. 361	SB 157	
5-2-304	amended	Ch. 248	HB 101	
5-5-202	amended	Ch. 122	SB 82	
5-5-223	amended	Ch. 333	SB 379	
5-5-227	amended	Ch. 41	SB 27	
5-5-228	amended	Ch. 41	SB 27	
5-5-231	amended	Ch. 122	SB 82	
5-11-203	amended	Ch. 348	HB 123	
5-16-103	amended	Ch. 390	SB 293	
5-20-301	enacted	Ch. 359	SB 128	
7-1-111	amended	Ch. 173	HB 222	
	amended	Ch. 456	SB 396	
7-1-201	amended	Ch. 49	HB 84	
7-1-204	enacted	Ch. 262	HB 334	
7-1-2121	amended	Ch. 49	HB 84	
7-1-2123	enacted	Ch. 262	HB 334	
7-1-4130	amended	Ch. 49	HB 84	
7-1-4134	amended	Ch. 121	SB 119	
7-2-2215	amended	Ch. 49	HB 84	
7-2-2219	repealed	Ch. 49	HB 84	
7-2-2603	repealed	Ch. 49	HB 84	
7-2-2604	amended	Ch. 49	HB 84	
7-2-2605	repealed	Ch. 49	HB 84	
7-2-2705	amended	Ch. 49	HB 84	
7-2-2709	amended	Ch. 49	HB 84	
7-2-2710	repealed	Ch. 49	HB 84	
7-2-2804	amended	Ch. 49	HB 84	
7-2-4104	amended	Ch. 49	HB 84	
7-2-4105	repealed	Ch. 49	HB 84	
7-2-4106	amended	Ch. 49	HB 84	
7-2-4211	amended	Ch. 158	HB 183	
7-2-4314	amended	Ch. 49	HB 84	
7-2-4601	amended	Ch. 49	HB 84	
7-2-4602	amended	Ch. 49	HB 84	
7-2-4603	repealed	Ch. 49	HB 84	
7-2-4606	amended	Ch. 49	HB 84	
7-2-4733	amended	Ch. 49	HB 84	
7-2-4902	amended	Ch. 49	HB 84	
7-2-4903	repealed	Ch. 49	HB 84	
7-2-4904	amended	Ch. 49	HB 84	
7-3-103	amended	Ch. 49	HB 84	
7-3-121	amended	Ch. 49	HB 84	
7-3-122	amended	Ch. 49	HB 84	
7-3-124	repealed	Ch. 49	HB 84	
7-3-125	amended	Ch. 49	HB 84	
7-3-149	amended	Ch. 49	HB 84	
7-3-154	amended	Ch. 49	HB 84	
7-3-155	amended	Ch. 49	HB 84	
7-3-160	amended	Ch. 49	HB 84	
7-3-173	amended	Ch. 49	HB 84	
7-3-174	amended	Ch. 49	HB 84	
7-3-175	amended	Ch. 49	HB 84	
7-3-176	amended	Ch. 49	HB 84	
7-3-178	amended	Ch. 49	HB 84	
7-3-186	amended	Ch. 49	HB 84	
7-3-187	amended	Ch. 49	HB 84	

7-3-192	amended	Ch.	49	HB	84
7-3-1204	amended	Ch.	49	HB	84
7-3-1205	amended	Ch.	49	HB	84
7-3-1206	amended	Ch.	49	HB	84
7-3-1208	amended	Ch.	49	HB	84
7-3-1209	amended	Ch.	49	HB	84
7-3-1216	amended	Ch.	49	HB	84
7-3-1218	amended	Ch.	49	HB	84
7-3-1219	amended	Ch.	49	HB	84
7-3-1229	amended	Ch.	49	HB	84
7-3-1231	amended	Ch.	49	HB	84
7-3-1254	amended	Ch.	49	HB	84
7-3-1271	amended	Ch.	49	HB	84
7-3-1325	enacted	Ch.	344	SB	249
7-3-4208	amended	Ch.	49	HB	84
7-3-4209	repealed	Ch.	49	HB	84
7-3-4210	amended	Ch.	49	HB	84
7-3-4212	amended	Ch.	49	HB	84
7-3-4214	amended	Ch.	49	HB	84
7-3-4222	amended	Ch.	49	HB	84
7-3-4223	amended	Ch.	49	HB	84
7-3-4305	amended	Ch.	49	HB	84
7-3-4306	repealed	Ch.	49	HB	84
7-3-4307	amended	Ch.	49	HB	84
7-3-4308	repealed	Ch.	49	HB	84
7-3-4309	amended	Ch.	49	HB	84
7-3-4310	amended	Ch.	49	HB	84
7-3-4311	amended	Ch.	49	HB	84
7-3-4316	amended	Ch.	49	HB	84
7-3-4319	amended	Ch.	49	HB	84
7-3-4322	amended	Ch.	49	HB	84
7-3-4341	repealed	Ch.	49	HB	84
7-3-4462	amended	Ch.	49	HB	84
7-4-2104	amended	Ch.	262	HB	334
7-4-2106	amended	Ch.	262	HB	334
7-4-2312	amended	Ch.	262	HB	334
7-4-2503	amended	Ch.	178	HB	366
	amended	Ch.	218	HB	461
7-4-2614	amended	Ch.	348	HB	123
7-4-2631	amended	Ch.	201	HB	367
	amended	Ch.	262	HB	334
	amended	Ch.	380	HB	223
7-4-2801	amended	Ch.	262	HB	334
7-5-131	amended	Ch.	49	HB	84
7-5-132	amended	Ch.	49	HB	84
7-5-136	repealed	Ch.	49	HB	84
7-5-2132	amended	Ch.	348	HB	123
7-5-4124	amended	Ch.	348	HB	123
7-5-4321	amended	Ch.	49	HB	84
7-5-4322	amended	Ch.	49	HB	84
7-6-616	amended	Ch.	262	HB	334
7-6-1501	amended	Ch.	49	HB	84
7-6-1502	amended	Ch.	49	HB	84
7-6-1504	amended	Ch.	49	HB	84
7-6-1505	amended	Ch.	49	HB	84
7-6-1506	amended	Ch.	49	HB	84
7-6-1508	amended	Ch.	49	HB	84
7-6-1509	amended	Ch.	49	HB	84
7-6-1531	repealed	Ch.	49	HB	84
7-6-1532	amended	Ch.	49	HB	84
7-6-1533	amended	Ch.	49	HB	84
7-6-1535	amended	Ch.	49	HB	84
7-6-1536	amended	Ch.	49	HB	84

7-6-1537	repealed	Ch.	49	HB	84
7-6-1538	repealed	Ch.	49	HB	84
7-6-1541	amended	Ch.	49	HB	84
7-6-1542	amended	Ch.	49	HB	84
7-6-1543	amended	Ch.	49	HB	84
7-6-1544	amended	Ch.	49	HB	84
7-6-1545	repealed	Ch.	49	HB	84
7-6-1546	amended	Ch.	49	HB	84
7-6-1547	amended	Ch.	49	HB	84
7-6-1548	amended	Ch.	49	HB	84
7-6-1549	repealed	Ch.	49	HB	84
7-6-1551	amended	Ch.	49	HB	84
7-6-1602	amended	Ch.	276	SB	237
7-6-1604	amended	Ch.	276	SB	237
7-6-2116	repealed	Ch.	262	HB	334
7-6-2801	amended	Ch.	262	HB	334
7-7-2101	amended	Ch.	262	HB	334
7-7-2223	amended	Ch.	49	HB	84
7-7-2227	amended	Ch.	49	HB	84
7-7-2228	repealed	Ch.	49	HB	84
7-7-2229	amended	Ch.	49	HB	84
7-7-2237	amended	Ch.	49	HB	84
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7-7-4426	amended	Ch.	49	HB	84
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7-8-4201	amended	Ch.	49	HB	84
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7-10-102	amended	Ch.	49	HB	84
7-10-104	amended	Ch.	49	HB	84
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7-11-1007	amended	Ch.	348	HB	123
7-11-1011	amended	Ch.	49	HB	84
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7-11-1035	enacted	Ch.	344	SB	249
7-12-2128	enacted	Ch.	314	HB	523
7-12-2202	amended	Ch.	262	HB	334
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7-13-2208	amended	Ch.	49	HB	84
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13-1-203 . . . . . amended . . . . . Ch. 209 . . . . . HB 69
13-1-301 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
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13-25-205. . . . . amended (void - sec. 4, Ch. 340) . . . . . Ch. 302 . . . . . SB 279
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13-35-225 . . . . . amended . . . . . Ch. 259 . . . . . SB 289
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13-37-233. . . . . enacted . . . . . Ch. 259 . . . . . SB 289
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15-1-216	amended	Ch. 308	HB 379
15-1-218	amended	Ch. 338	SB 91
15-1-230	amended	Ch. 3	SB 33
15-1-521	amended	Ch. 348	HB 123
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	amended	Ch. 361	SB 157
15-2-302	amended	Ch. 26	HB 41
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15-6-134	amended	Ch. 361	SB 157
15-6-135	amended	Ch. 407	HB 156
15-6-138	amended	Ch. 361	SB 157
15-6-143	amended	Ch. 361	SB 157
15-6-158	amended	Ch. 407	HB 156
15-6-193	repealed	Ch. 361	SB 157
15-6-201	amended	Ch. 366	SB 308
15-6-211	repealed	Ch. 361	SB 157
15-6-219	amended	Ch. 374	HB 486
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15-6-222	repealed	Ch. 361	SB 157
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15-6-231	enacted	Ch. 372	HB 389
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15-6-234	enacted	Ch. 372	HB 389
15-6-301	enacted	Ch. 361	SB 157
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15-7-102	amended	Ch. 336	SB 54
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15-7-103	amended	Ch. 361	SB 157
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15-10-203	repealed	Ch. 262	HB 334
15-10-420	amended	Ch. 361	SB 157
15-10-425	amended	Ch. 49	HB 84
15-15-101	amended	Ch. 329	SB 335
15-15-102	amended	Ch. 361	SB 157
15-15-103	amended	Ch. 26	HB 41
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15-16-101	amended	Ch. 361	SB 157
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15-16-203	amended	Ch. 372	HB 389
15-24-903	amended	Ch. 54	SB 62
15-24-905	amended	Ch. 54	SB 62
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15-24-921	amended	Ch. 54	SB 62
15-24-922	amended	Ch. 83	SB 108
15-24-1410	enacted	Ch. 440	SB 122
15-24-2101	repealed	Ch. 361	SB 157
15-24-2102	repealed	Ch. 361	SB 157
15-24-2103	repealed	Ch. 361	SB 157
15-24-3004	amended	Ch. 109	SB 111
15-24-3202	amended	Ch. 361	SB 157
15-24-3203	amended	Ch. 361	SB 157
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15-30-2101	amended	Ch. 418	HB 359
15-30-2103	amended	Ch. 418	HB 359
15-30-2110	amended	Ch. 63	HB 103
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15-30-2132	amended	Ch. 418	HB 359
15-30-2334	enacted	Ch. 457	SB 410
15-30-2335	enacted	Ch. 457	SB 410
15-30-2339	amended	Ch. 308	HB 379
15-30-2341	amended	Ch. 308	HB 379
15-30-2380	amended	Ch. 392	SB 309
15-30-2381	amended	Ch. 388	SB 175
15-30-2501	amended	Ch. 36	HB 122
15-30-2512	amended	Ch. 308	HB 379
15-30-2531	amended	Ch. 308	HB 379
15-30-2602	amended	Ch. 418	HB 359
15-30-2604	amended (void - sec. 15, Ch. 308)	Ch. 55	SB 65
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	amended (void - sec. 2, Ch. 441)	Ch. 441	SB 212
15-30-2605	amended	Ch. 308	HB 379
15-30-2606	amended	Ch. 308	HB 379
15-30-2607	amended	Ch. 308	HB 379
15-30-2609	amended	Ch. 308	HB 379
15-30-2618	amended	Ch. 76	SB 51
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15-30-2643	amended	Ch. 308	HB 379
15-30-2660	enacted	Ch. 368	SB 405
15-30-3003	amended	Ch. 308	HB 379
15-30-3101	enacted	Ch. 457	SB 410
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15-30-3104	enacted	Ch. 457	SB 410
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15-31-150	amended	Ch. 55	SB 65
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20-9-366 . . . . . amended . . . . . Ch. 8 . . . . . HB 31
20-9-368 . . . . . amended . . . . . Ch. 8 . . . . . HB 31
20-9-406 . . . . . amended . . . . . Ch. 307 . . . . . HB 373
20-9-407 . . . . . amended . . . . . Ch. 307 . . . . . HB 373
20-9-426 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
20-9-428 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
20-9-471 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
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20-9-517 . . . . . amended . . . . . Ch. 432 . . . . . SB 252
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20-9-518 . . . . . amended . . . . . Ch. 29 . . . . . HB 67
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20-9-520 . . . . . amended . . . . . Ch. 432 . . . . . SB 252
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20-9-537 . . . . . amended . . . . . Ch. 426 . . . . . HB 559
20-9-543 . . . . . amended . . . . . Ch. 457 . . . . . SB 410
20-9-570 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-901 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-902 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-903 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-904 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-905 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-9-906 . . . . . enacted . . . . . Ch. 457 . . . . . SB 410
20-10-107 . . . . . amended . . . . . Ch. 8 . . . . . HB 31
20-10-132 . . . . . amended . . . . . Ch. 128 . . . . . HB 387
20-10-147 . . . . . amended . . . . . Ch. 8 . . . . . HB 31
20-15-104 . . . . . amended . . . . . Ch. 68 . . . . . HB 248
20-15-203 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
20-15-204 . . . . . amended . . . . . Ch. 49 . . . . . HB 84
20-15-205 . . . . . repealed . . . . . Ch. 49 . . . . . HB 84
20-15-206 . . . . . repealed . . . . . Ch. 49 . . . . . HB 84
20-15-207 . . . . . amended . . . . . Ch. 49 . . . . . HB 84

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20-15-209	amended	Ch. 49	HB 84
20-15-219	amended	Ch. 49	HB 84
20-15-221	amended	Ch. 49	HB 84
20-15-222	amended	Ch. 49	HB 84
20-15-224	amended	Ch. 49	HB 84
20-15-225	amended	Ch. 49	HB 84
20-15-231	amended	Ch. 49	HB 84
20-15-241	amended	Ch. 49	HB 84
20-15-403	amended	Ch. 84	SB 113
20-20-101	repealed	Ch. 49	HB 84
20-20-105	amended	Ch. 49	HB 84
20-20-106	amended	Ch. 49	HB 84
20-20-201	amended	Ch. 49	HB 84
20-20-202	repealed	Ch. 49	HB 84
20-20-204	amended	Ch. 49	HB 84
20-20-311	amended	Ch. 49	HB 84
20-20-312	amended	Ch. 49	HB 84
20-20-401	amended	Ch. 49	HB 84
	amended	Ch. 214	HB 198
20-20-417	amended	Ch. 49	HB 84
20-25-421	amended	Ch. 73	SB 29
	amended	Ch. 235	HB 68
20-25-428	amended	Ch. 286	HB 196
20-26-601	amended	Ch. 385	HB 617
20-26-602	amended	Ch. 385	HB 617
20-26-603	amended	Ch. 385	HB 617
20-26-605	amended	Ch. 385	HB 617
20-26-606	amended	Ch. 385	HB 617
20-26-614	enacted	Ch. 385	HB 617
20-26-615	enacted	Ch. 385	HB 617
20-26-616	enacted	Ch. 385	HB 617
20-26-617	enacted	Ch. 385	HB 617
20-26-1101	amended	Ch. 227	HB 363
20-26-1115	repealed	Ch. 227	HB 363
20-26-1116	repealed	Ch. 227	HB 363
20-26-1117	repealed	Ch. 227	HB 363
20-26-1118	repealed	Ch. 227	HB 363
20-26-1119	repealed	Ch. 227	HB 363
20-26-1120	repealed	Ch. 227	HB 363
20-26-1121	repealed	Ch. 227	HB 363
22-1-211	amended	Ch. 348	HB 123
22-1-304	amended	Ch. 49	HB 84
22-1-703	amended	Ch. 49	HB 84
22-1-706	amended	Ch. 49	HB 84
22-1-708	amended	Ch. 49	HB 84
22-1-709	amended	Ch. 49	HB 84
22-1-710	amended	Ch. 49	HB 84
22-3-116	enacted	Ch. 423	HB 487
22-3-117	enacted	Ch. 423	HB 487
22-3-804	amended	Ch. 99	HB 126
22-3-811	amended	Ch. 99	HB 126
22-3-1001	amended	Ch. 78	SB 64
22-3-1002	amended	Ch. 78	SB 64
22-3-1003	amended	Ch. 78	SB 64
22-3-1004	amended	Ch. 78	SB 64
23-1-102	amended	Ch. 322	SB 191
23-2-302	amended	Ch. 327	SB 232
23-2-311	amended	Ch. 327	SB 232
23-2-601	amended	Ch. 416	HB 300
23-2-614	amended	Ch. 416	HB 300
23-2-636	enacted	Ch. 416	HB 300
23-2-644	amended	Ch. 416	HB 300

23-2-652	repealed	Ch. 416	HB 300
23-2-657	amended	Ch. 416	HB 300
23-2-702	amended	Ch. 59	SB 164
23-2-802	amended	Ch. 409	HB 167
23-2-814	amended	Ch. 409	HB 167
23-3-402	amended	Ch. 437	SB 401
23-3-404	amended	Ch. 437	SB 401
23-3-405	amended	Ch. 437	SB 401
23-3-501	amended	Ch. 437	SB 401
23-3-502	repealed	Ch. 437	SB 401
23-3-503	enacted	Ch. 437	SB 401
23-3-601	repealed	Ch. 437	SB 401
23-3-602	repealed	Ch. 437	SB 401
23-4-101	amended	Ch. 382	HB 577
23-4-301	amended	Ch. 382	HB 577
23-5-112	amended	Ch. 61	HB 38
23-5-113	amended	Ch. 61	HB 38
23-5-115	amended	Ch. 61	HB 38
23-5-222	amended	Ch. 61	HB 38
23-5-306	amended	Ch. 61	HB 38
23-5-501	amended	Ch. 61	HB 38
23-7-102	amended	Ch. 385	HB 617
23-7-202	amended	Ch. 385	HB 617
23-7-402	amended	Ch. 385	HB 617
25-2-122	amended	Ch. 104	HB 61
25-3-106	enacted	Ch. 368	SB 405
25-40-101	enacted	Ch. 200	HB 272
25-40-102	enacted	Ch. 200	HB 272
25-40-103	enacted	Ch. 200	HB 272
25-40-104	enacted	Ch. 200	HB 272
25-40-105	enacted	Ch. 200	HB 272
25-40-106	enacted	Ch. 200	HB 272
25-40-107	enacted	Ch. 200	HB 272
25-40-108	enacted	Ch. 200	HB 272
25-40-109	enacted	Ch. 200	HB 272
25-40-110	enacted	Ch. 200	HB 272
25-40-111	enacted	Ch. 200	HB 272
25-40-112	enacted	Ch. 200	HB 272
25-40-113	enacted	Ch. 200	HB 272
25-40-114	enacted	Ch. 200	HB 272
25-40-115	enacted	Ch. 200	HB 272
25-40-116	enacted	Ch. 200	HB 272
25-40-117	enacted	Ch. 200	HB 272
25-40-118	enacted	Ch. 200	HB 272
25-40-119	enacted	Ch. 200	HB 272
25-40-120	enacted	Ch. 200	HB 272
25-40-121	enacted	Ch. 200	HB 272
26-1-807	amended	Ch. 183	HB 513
26-1-902	amended	Ch. 215	HB 207
27-1-720	amended	Ch. 440	SB 122
27-1-732	amended	Ch. 63	HB 103
27-1-753	amended	Ch. 410	HB 204
27-1-755	enacted	Ch. 285	HB 89
27-2-205	amended	Ch. 368	SB 405
27-6-103	amended	Ch. 154	SB 77
28-2-702	amended	Ch. 410	HB 204
30-9A-522	amended	Ch. 348	HB 123
30-10-103	amended	Ch. 28	HB 57
30-10-105	amended	Ch. 163	HB 481
30-10-205	amended	Ch. 63	HB 103
30-10-216	repealed	Ch. 318	HB 554
30-10-301	amended	Ch. 318	HB 554
30-10-303	amended	Ch. 318	HB 554

30-10-305	amended	Ch. 28	HB 57
30-10-306	amended	Ch. 28	HB 57
30-10-324	amended	Ch. 318	HB 554
30-10-327	enacted	Ch. 318	HB 554
30-10-1003	amended	Ch. 28	HB 57
30-10-1006	amended	Ch. 28	HB 57
30-12-301	amended	Ch. 239	HB 478
30-13-151	enacted	Ch. 186	SB 39
30-13-152	enacted	Ch. 186	SB 39
30-13-153	enacted	Ch. 186	SB 39
30-13-154	enacted	Ch. 186	SB 39
30-13-203	amended	Ch. 166	SB 41
30-13-202(4)	enacted	Ch. 166	SB 41
30-14-1603	amended	Ch. 348	HB 123
30-14-1704	amended	Ch. 62	HB 74
30-17-101	amended	Ch. 348	HB 123
30-20-201	enacted	Ch. 440	SB 122
30-20-202	enacted	Ch. 440	SB 122
30-20-203	enacted	Ch. 440	SB 122
30-20-204	enacted	Ch. 440	SB 122
30-20-205	enacted	Ch. 440	SB 122
30-20-206	enacted	Ch. 440	SB 122
31-1-402	amended	Ch. 222	HB 208
31-1-712	amended	Ch. 23	SB 75
31-1-713	amended	Ch. 23	SB 75
31-1-725	repealed	Ch. 23	SB 75
31-1-727	amended	Ch. 23	SB 75
32-1-231	amended	Ch. 12	HB 66
32-1-232	amended	Ch. 12	HB 66
32-1-233	amended	Ch. 12	HB 66
32-1-234	amended	Ch. 12	HB 66
32-1-235	repealed	Ch. 12	HB 66
32-1-1005	amended	Ch. 12	HB 66
32-3-102	amended	Ch. 317	HB 550
32-3-301	amended	Ch. 317	HB 550
32-3-321	amended	Ch. 317	HB 550
32-3-322	amended	Ch. 317	HB 550
32-3-401	amended	Ch. 317	HB 550
32-3-403	amended	Ch. 317	HB 550
32-3-405	amended	Ch. 317	HB 550
32-3-406	amended	Ch. 317	HB 550
32-3-412	repealed	Ch. 117	SB 53
32-3-413	repealed	Ch. 317	HB 550
32-3-414	repealed	Ch. 317	HB 550
32-3-415	repealed	Ch. 317	HB 550
32-3-416	amended	Ch. 317	HB 550
32-3-417	amended	Ch. 317	HB 550
32-3-418	amended	Ch. 317	HB 550
32-3-422	enacted	Ch. 117	SB 53
32-3-601	repealed	Ch. 317	HB 550
32-3-608	amended	Ch. 317	HB 550
32-3-701	amended	Ch. 317	HB 550
32-5-202	amended	Ch. 23	SB 75
32-5-207	amended	Ch. 23	SB 75
32-5-301	amended	Ch. 311	HB 470
32-5-402	amended	Ch. 23	SB 75
32-5-407	amended	Ch. 23	SB 75
32-5-408	amended	Ch. 23	SB 75
32-9-102	amended	Ch. 24	SB 98
32-9-103	amended	Ch. 24	SB 98
32-9-104	amended	Ch. 24	SB 98
32-9-105	amended	Ch. 24	SB 98
32-9-107	amended	Ch. 24	SB 98

32-9-109	amended	Ch. 24	SB 98
32-9-112	amended	Ch. 24	SB 98
32-9-113	amended	Ch. 24	SB 98
32-9-122	amended	Ch. 24	SB 98
32-9-123	amended	Ch. 24	SB 98
32-9-129	amended	Ch. 24	SB 98
32-9-130	amended	Ch. 24	SB 98
32-9-135	enacted	Ch. 24	SB 98
32-9-166	amended	Ch. 24	SB 98
32-9-169	amended	Ch. 24	SB 98
32-9-170	amended	Ch. 24	SB 98
32-11-107	amended	Ch. 348	HB 123
33-1-102	amended	Ch. 229	HB 536
	amended	Ch. 320	SB 123
33-1-115	enacted	Ch. 320	SB 123
33-1-402	amended	Ch. 139	HB 95
33-1-409	amended	Ch. 63	HB 103
33-1-701	amended	Ch. 63	HB 103
33-1-1403	amended	Ch. 348	HB 123
33-2-117	amended	Ch. 63	HB 103
33-2-301	amended	Ch. 50	HB 94
33-2-302	amended	Ch. 50	HB 94
33-2-311	amended	Ch. 223	HB 240
33-2-320	enacted	Ch. 223	HB 240
33-2-401	enacted	Ch. 370	HB 119
33-2-402	enacted	Ch. 370	HB 119
33-2-403	enacted	Ch. 370	HB 119
33-2-404	enacted	Ch. 370	HB 119
33-2-405	enacted	Ch. 370	HB 119
33-2-406	enacted	Ch. 370	HB 119
33-2-407	formerly 33-2-521	Ch. 370	HB 119
33-2-408	formerly 33-2-522	Ch. 370	HB 119
33-2-409	formerly 33-2-523	Ch. 370	HB 119
33-2-410	formerly 33-2-524	Ch. 370	HB 119
33-2-411	formerly 33-2-525	Ch. 370	HB 119
33-2-412	formerly 33-2-526	Ch. 370	HB 119
33-2-413	formerly 33-2-527	Ch. 370	HB 119
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33-2-416	formerly 33-2-531	Ch. 370	HB 119
33-2-417	formerly 33-2-537	Ch. 370	HB 119
33-2-418	enacted	Ch. 370	HB 119
33-2-521	amended and renumbered 33-2-407	Ch. 370	HB 119
33-2-522	renumbered 33-2-408	Ch. 370	HB 119
33-2-523	amended and renumbered 33-2-409	Ch. 370	HB 119
33-2-524	renumbered 33-2-410	Ch. 370	HB 119
33-2-525	amended and renumbered 33-2-411	Ch. 370	HB 119
33-2-526	amended and renumbered 33-2-412	Ch. 370	HB 119
33-2-527	amended and renumbered 33-2-413	Ch. 370	HB 119
33-2-528	renumbered 33-2-414	Ch. 370	HB 119
33-2-529	renumbered 33-2-415	Ch. 370	HB 119
33-2-531	renumbered 33-2-416	Ch. 370	HB 119
33-2-537	amended and renumbered 33-2-417	Ch. 370	HB 119
33-2-705	amended	Ch. 377	SB 234
33-2-708	amended	Ch. 63	HB 103
	amended	Ch. 139	HB 95
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33-2-1101	amended	Ch. 370	HB 119
33-2-1104	amended	Ch. 370	HB 119
33-2-1105	amended	Ch. 370	HB 119
33-2-1106	amended	Ch. 370	HB 119
33-2-1111	amended	Ch. 370	HB 119
33-2-1112	amended	Ch. 370	HB 119

33-2-1113	amended	Ch. 370	HB 119
33-2-1115	amended	Ch. 370	HB 119
33-2-1116	amended	Ch. 370	HB 119
33-2-1120	amended	Ch. 370	HB 119
33-2-1130	enacted	Ch. 370	HB 119
33-2-1131	enacted	Ch. 370	HB 119
33-2-1132	enacted	Ch. 370	HB 119
33-2-1133	enacted	Ch. 370	HB 119
33-2-1134	enacted	Ch. 370	HB 119
33-2-1135	enacted	Ch. 370	HB 119
33-2-1136	enacted	Ch. 370	HB 119
33-2-1137	enacted	Ch. 370	HB 119
33-2-1138	enacted	Ch. 370	HB 119
33-2-1216	amended	Ch. 370	HB 119
33-2-1217	amended	Ch. 370	HB 119
33-2-1501	amended	Ch. 370	HB 119
33-2-1902	amended	Ch. 63	HB 103
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33-2-1904	amended	Ch. 63	HB 103
33-2-1912	repealed	Ch. 63	HB 103
33-4-101	amended	Ch. 63	HB 103
33-4-521	enacted	Ch. 184	HB 522
33-4-522	enacted	Ch. 184	HB 522
33-7-117	amended	Ch. 63	HB 103
33-10-105	amended	Ch. 63	HB 103
33-11-103	amended	Ch. 370	HB 119
33-15-601	enacted	Ch. 369	HB 118
33-15-602	enacted	Ch. 369	HB 118
33-15-603	enacted	Ch. 369	HB 118
33-15-604	enacted	Ch. 369	HB 118
33-15-605	enacted	Ch. 369	HB 118
33-15-606	enacted	Ch. 369	HB 118
33-15-610	enacted	Ch. 369	HB 118
33-15-611	enacted	Ch. 369	HB 118
33-15-1126	enacted	Ch. 267	HB 503
33-16-303	amended	Ch. 320	SB 123
33-16-1002	amended	Ch. 320	SB 123
33-16-1008	amended	Ch. 320	SB 123
33-16-1021	amended	Ch. 320	SB 123
33-16-1024	repealed 1/1/2016	Ch. 320	SB 123
33-16-1033	amended	Ch. 320	SB 123
33-16-1035	amended	Ch. 320	SB 123
33-17-102	amended	Ch. 139	HB 95
33-17-220	amended	Ch. 346	SB 350
33-17-241	amended	Ch. 346	SB 350
33-17-301	amended	Ch. 139	HB 95
33-17-302	enacted	Ch. 139	HB 95
33-17-303	enacted	Ch. 139	HB 95
33-17-1001	amended	Ch. 139	HB 95
33-17-1002	amended	Ch. 139	HB 95
33-17-1003	repealed	Ch. 63	HB 103
33-17-1004	amended	Ch. 139	HB 95
33-17-1202	amended	Ch. 139	HB 95
33-17-1203	amended	Ch. 139	HB 95
33-17-1205	amended	Ch. 139	HB 95
33-17-1502	amended	Ch. 63	HB 103
33-18-210	amended	Ch. 98	HB 53
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33-18-212	amended	Ch. 223	HB 240
33-18-214	repealed	Ch. 63	HB 103
33-18-217	enacted	Ch. 98	HB 53
33-19-321	amended	Ch. 62	HB 74
33-20-114	amended	Ch. 63	HB 103

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33-20-208 . . . . . amended . . . . . Ch. 370 . . . . . HB 119
33-20-1603 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-111 . . . . . amended . . . . . Ch. 342 . . . . . SB 192
33-22-132 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-138 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-139. . . . . enacted . . . . . Ch. 256 . . . . . HB 318
33-22-140 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-142 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
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33-22-143 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-166. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-170. . . . . enacted . . . . . Ch. 431 . . . . . SB 211
33-22-171. . . . . enacted . . . . . Ch. 431 . . . . . SB 211
33-22-172. . . . . enacted . . . . . Ch. 431 . . . . . SB 211
33-22-173. . . . . enacted . . . . . Ch. 431 . . . . . SB 211
33-22-245. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-703 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
33-22-706 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-22-1501 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
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33-22-1502 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
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33-22-1503 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
33-22-1504 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
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33-22-1505 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
33-22-1511. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1512. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
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33-22-1514 . . . . . repealed 1/1/2016 . . . . . Ch. 63 . . . . . HB 103
33-22-1515. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1516. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1517. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1518. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1521. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1523. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1524. . . . . repealed . . . . . Ch. 63 . . . . . HB 103
33-22-1804 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
33-23-204 . . . . . amended . . . . . Ch. 374 . . . . . HB 486
33-23-221. . . . . enacted . . . . . Ch. 304 . . . . . HB 78
33-23-222. . . . . enacted . . . . . Ch. 304 . . . . . HB 78
33-23-223. . . . . enacted . . . . . Ch. 304 . . . . . HB 78
33-23-224. . . . . enacted . . . . . Ch. 304 . . . . . HB 78
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33-28-101 . . . . . amended . . . . . Ch. 229 . . . . . HB 536
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33-28-102 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-104 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-105 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-108 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
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33-28-109 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-201 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-206 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-207 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-301 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-28-302 . . . . . amended . . . . . Ch. 335 . . . . . SB 52
33-30-102 . . . . . amended . . . . . Ch. 428 . . . . . SB 83
33-30-107 . . . . . amended . . . . . Ch. 63 . . . . . HB 103

33-30-108 . . . . . amended . . . . . Ch. 63 . . . . . HB 103
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33-31-111 . . . . . amended . . . . . Ch. 256 . . . . . HB 318
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33-31-204 . . . . . amended . . . . . Ch. 370 . . . . . HB 119
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33-32-102 . . . . . amended . . . . . Ch. 428 . . . . . SB 83
33-32-103 . . . . . amended . . . . . Ch. 428 . . . . . SB 83
33-32-104 . . . . . amended . . . . . Ch. 428 . . . . . SB 83
33-32-105 . . . . . amended . . . . . Ch. 428 . . . . . SB 83
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33-32-206. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-207. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-208. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-211. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
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33-32-215. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-216. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-217. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
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33-32-306. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-307. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-308. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-309. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-401. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
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33-32-421. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-422. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
33-32-423. . . . . enacted . . . . . Ch. 428 . . . . . SB 83
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33-37-103 . . . . . repealed 1/1/2016 . . . . . Ch. 428 . . . . . SB 83
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35-1-311. . . . . amended (void - sec. 27, Ch. 280) . . . . . Ch. 42 . . . . . SB 35
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35-1-1037	amended	Ch. 280	SB	307
35-1-1038	amended	Ch. 280	SB	307
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35-2-831	amended	Ch. 280	SB	307
35-2-832	amended	Ch. 280	SB	307
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35-4-109	amended	Ch. 280	SB	307
35-4-206	amended	Ch. 166	SB	41
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35-8-102	amended	Ch. 280	SB	307
35-8-106	amended	Ch. 205	HB	537
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35-8-1010	amended	Ch. 280	SB	307
35-8-1011	amended	Ch. 280	SB	307
35-10-641	amended	Ch. 280	SB	307
35-10-701	amended	Ch. 166	SB	41
35-10-703	amended	Ch. 166	SB	41
35-12-504	amended	Ch. 280	SB	307
35-12-1301	amended	Ch. 280	SB	307
35-12-1302	amended	Ch. 42	SB	35
35-12-1314	enacted	Ch. 43	SB	36
35-20-313	amended	Ch. 168	SB	174
35-20-316	enacted	Ch. 168	SB	174
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37-1-134	amended	Ch. 187	SB	79
37-1-141	amended	Ch. 80	SB	76
37-1-306	amended	Ch. 80	SB	76
37-1-309	amended	Ch. 80	SB	76
37-1-313	amended	Ch. 80	SB	76
37-1-321	enacted	Ch. 80	SB	76
37-1-332	enacted	Ch. 212	HB	117
37-1-403	amended	Ch. 80	SB	76
37-1-407	amended	Ch. 80	SB	76
37-1-420	enacted	Ch. 80	SB	76
37-3-102	amended	Ch. 154	SB	77

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37-3-357 . . . . . enacted . . . . . Ch. 203 . . . . . HB 429
37-3-403 . . . . . amended . . . . . Ch. 154 . . . . . SB 77
37-6-304 . . . . . repealed . . . . . Ch. 154 . . . . . SB 77
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37-8-452 . . . . . enacted . . . . . Ch. 65 . . . . . HB 147
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37-19-302 . . . . . amended . . . . . Ch. 34 . . . . . HB 110
37-19-828 . . . . . amended . . . . . Ch. 125 . . . . . HB 225
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37-22-102 . . . . . amended . . . . . Ch. 130 . . . . . SB 22
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37-22-305 . . . . . amended . . . . . Ch. 130 . . . . . SB 22
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37-23-102 . . . . . amended . . . . . Ch. 130 . . . . . SB 22
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37-31-103 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
37-31-203 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
37-31-301 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
37-31-302 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
37-31-303 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
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37-31-308 . . . . . amended . . . . . Ch. 15 . . . . . HB 81
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37-31-331	amended	Ch.	15	HB 81
37-33-404	amended	Ch.	15	HB 81
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37-35-103	amended	Ch.	288	HB 358
37-35-201	amended	Ch.	288	HB 358
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37-35-302	renumbered 37-35-204	Ch.	288	HB 358
37-35-303	repealed	Ch.	288	HB 358
37-35-304	repealed	Ch.	288	HB 358
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37-37-201	amended	Ch.	130	SB 22
37-37-205	enacted	Ch.	130	SB 22
37-47-101	amended	Ch.	55	SB 65
37-50-101	amended	Ch.	169	HB 44
37-50-102	amended	Ch.	169	HB 44
37-50-203	amended	Ch.	169	HB 44
37-50-205	amended	Ch.	427	HB 560
37-50-209	enacted	Ch.	427	HB 560
37-50-210	enacted	Ch.	427	HB 560
37-50-301	amended	Ch.	169	HB 44
37-50-302	amended	Ch.	169	HB 44
37-50-303	repealed	Ch.	169	HB 44
37-50-304	repealed	Ch.	169	HB 44
37-50-305	amended	Ch.	169	HB 44
37-50-309	amended	Ch.	169	HB 44
37-50-310	repealed	Ch.	169	HB 44
37-50-311	repealed	Ch.	169	HB 44
37-50-312	repealed	Ch.	169	HB 44
37-50-313	repealed	Ch.	169	HB 44
37-50-314	amended	Ch.	169	HB 44
37-50-315	repealed	Ch.	427	HB 560
37-50-316	amended	Ch.	169	HB 44
37-50-318	enacted	Ch.	169	HB 44
37-50-325	amended	Ch.	169	HB 44
37-50-330	amended	Ch.	169	HB 44
37-50-335	amended	Ch.	169	HB 44
37-50-341	amended	Ch.	169	HB 44
37-50-401	amended	Ch.	169	HB 44
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37-50-403	amended	Ch.	169	HB 44
37-51-102	amended	Ch.	211	HB 102
37-51-103	amended	Ch.	211	HB 102
37-51-204	amended	Ch.	80	SB 76
37-51-301	amended	Ch.	211	HB 102
37-51-306	amended	Ch.	211	HB 102
37-51-313	amended	Ch.	211	HB 102
37-51-602	amended	Ch.	211	HB 102
37-54-102	amended	Ch.	303	HB 29
37-54-105	amended	Ch.	303	HB 29
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37-60-105	amended	Ch.	38	HB 184
37-60-303	amended	Ch.	161	HB 382
37-67-101	amended	Ch.	4	HB 63
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37-67-302	repealed	Ch.	4	HB	63
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37-67-305	repealed	Ch.	4	HB	63
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37-67-307	repealed	Ch.	4	HB	63
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37-67-309	repealed	Ch.	4	HB	63
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37-68-311	amended	Ch.	14	HB	79
37-68-316	amended	Ch.	90	HB	80
37-69-102	amended	Ch.	14	HB	79
37-69-302	repealed	Ch.	14	HB	79
37-69-304	amended	Ch.	90	HB	80
37-69-310	amended	Ch.	90	HB	80
39-2-307	enacted	Ch.	263	HB	343
39-3-406	amended	Ch.	86	SB	135
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39-71-118	amended	Ch. 330	SB	347
	amended	Ch. 364	SB	258
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39-71-435	amended	Ch. 365	SB	259
39-71-442	enacted	Ch. 315	HB	538
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40-5-163	amended and renumbered 40-5-1026	Ch. 174	HB	227
40-5-164	amended and renumbered 40-5-1027	Ch. 174	HB	227
40-5-165	amended and renumbered 40-5-1030	Ch. 174	HB	227
40-5-166	amended and renumbered 40-5-1028	Ch. 174	HB	227
40-5-170	renumbered 40-5-1029	Ch. 174	HB	227
40-5-171	amended and renumbered 40-5-1031	Ch. 174	HB	227
40-5-172	amended and renumbered 40-5-1032	Ch. 174	HB	227
40-5-173	amended and renumbered 40-5-1033	Ch. 174	HB	227
40-5-174	amended and renumbered 40-5-1035	Ch. 174	HB	227
40-5-175	amended and renumbered 40-5-1036	Ch. 174	HB	227
40-5-176	amended and renumbered 40-5-1037	Ch. 174	HB	227
40-5-177	amended and renumbered 40-5-1038	Ch. 174	HB	227
40-5-178	amended and renumbered 40-5-1039	Ch. 174	HB	227
40-5-179	amended and renumbered 40-5-1042	Ch. 174	HB	227
40-5-180	amended and renumbered 40-5-1052	Ch. 174	HB	227

40-5-181 . . . . . amended and renumbered 40-5-1016 . . . . . Ch. 174 . . . . . HB 227
40-5-183 . . . . . amended and renumbered 40-5-1034 . . . . . Ch. 174 . . . . . HB 227
40-5-184 . . . . . amended and renumbered 40-5-1055 . . . . . Ch. 174 . . . . . HB 227
40-5-185 . . . . . amended and renumbered 40-5-1056 . . . . . Ch. 174 . . . . . HB 227
40-5-186 . . . . . amended and renumbered 40-5-1057 . . . . . Ch. 174 . . . . . HB 227
40-5-187 . . . . . amended and renumbered 40-5-1058 . . . . . Ch. 174 . . . . . HB 227
40-5-188 . . . . . amended and renumbered 40-5-1059 . . . . . Ch. 174 . . . . . HB 227
40-5-189 . . . . . amended and renumbered 40-5-1060 . . . . . Ch. 174 . . . . . HB 227
40-5-190 . . . . . amended and renumbered 40-5-1061 . . . . . Ch. 174 . . . . . HB 227
40-5-191 . . . . . amended and renumbered 40-5-1062 . . . . . Ch. 174 . . . . . HB 227
40-5-192 . . . . . amended and renumbered 40-5-1063 . . . . . Ch. 174 . . . . . HB 227
40-5-193 . . . . . amended and renumbered 40-5-1064 . . . . . Ch. 174 . . . . . HB 227
40-5-195 . . . . . amended and renumbered 40-5-1066 . . . . . Ch. 174 . . . . . HB 227
40-5-196 . . . . . amended and renumbered 40-5-1043 . . . . . Ch. 174 . . . . . HB 227
40-5-197 . . . . . amended and renumbered 40-5-1092 . . . . . Ch. 174 . . . . . HB 227
40-5-272 . . . . . amended . . . . . Ch. 174 . . . . . HB 227
40-5-923 . . . . . amended . . . . . Ch. 174 . . . . . HB 227
40-5-1001 . . . . . formerly 40-5-101 . . . . . Ch. 174 . . . . . HB 227
40-5-1002 . . . . . formerly 40-5-103 . . . . . Ch. 174 . . . . . HB 227
40-5-1003 . . . . . formerly 40-5-143 . . . . . Ch. 174 . . . . . HB 227
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40-5-1009. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1010 . . . . . formerly 40-5-147 . . . . . Ch. 174 . . . . . HB 227
40-5-1011 . . . . . formerly 40-5-148 . . . . . Ch. 174 . . . . . HB 227
40-5-1012 . . . . . formerly 40-5-149 . . . . . Ch. 174 . . . . . HB 227
40-5-1013 . . . . . formerly 40-5-150 . . . . . Ch. 174 . . . . . HB 227
40-5-1014 . . . . . formerly 40-5-151 . . . . . Ch. 174 . . . . . HB 227
40-5-1015 . . . . . formerly 40-5-152 . . . . . Ch. 174 . . . . . HB 227
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40-5-1018. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
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40-5-1024 . . . . . formerly 40-5-161 . . . . . Ch. 174 . . . . . HB 227
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40-5-1035 . . . . . formerly 40-5-174 . . . . . Ch. 174 . . . . . HB 227
40-5-1036 . . . . . formerly 40-5-175 . . . . . Ch. 174 . . . . . HB 227
40-5-1037 . . . . . formerly 40-5-176 . . . . . Ch. 174 . . . . . HB 227
40-5-1038 . . . . . formerly 40-5-177 . . . . . Ch. 174 . . . . . HB 227
40-5-1039 . . . . . formerly 40-5-178 . . . . . Ch. 174 . . . . . HB 227
40-5-1042 . . . . . formerly 40-5-179 . . . . . Ch. 174 . . . . . HB 227
40-5-1043 . . . . . formerly 40-5-196 . . . . . Ch. 174 . . . . . HB 227
40-5-1046 . . . . . formerly 40-5-157(1) . . . . . Ch. 174 . . . . . HB 227
40-5-1047 . . . . . formerly 40-5-157(2)-(4) . . . . . Ch. 174 . . . . . HB 227
40-5-1048 . . . . . formerly 40-5-157(5) . . . . . Ch. 174 . . . . . HB 227
40-5-1049 . . . . . formerly 40-5-157(6) . . . . . Ch. 174 . . . . . HB 227
40-5-1050 . . . . . formerly 40-5-157(7) . . . . . Ch. 174 . . . . . HB 227
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40-5-1055 . . . . . formerly 40-5-184 . . . . . Ch. 174 . . . . . HB 227
40-5-1056 . . . . . formerly 40-5-185 . . . . . Ch. 174 . . . . . HB 227

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40-5-1058 . . . . . formerly 40-5-187 . . . . . Ch. 174 . . . . . HB 227
40-5-1059 . . . . . formerly 40-5-188 . . . . . Ch. 174 . . . . . HB 227
40-5-1060 . . . . . formerly 40-5-189 . . . . . Ch. 174 . . . . . HB 227
40-5-1061 . . . . . formerly 40-5-190 . . . . . Ch. 174 . . . . . HB 227
40-5-1062 . . . . . formerly 40-5-191 . . . . . Ch. 174 . . . . . HB 227
40-5-1063 . . . . . formerly 40-5-192 . . . . . Ch. 174 . . . . . HB 227
40-5-1064 . . . . . formerly 40-5-193 . . . . . Ch. 174 . . . . . HB 227
40-5-1065 . . . . . formerly 40-5-194(1)-(6) . . . . . Ch. 174 . . . . . HB 227
40-5-1066 . . . . . formerly 40-5-195 . . . . . Ch. 174 . . . . . HB 227
40-5-1067 . . . . . formerly 40-5-194(7) . . . . . Ch. 174 . . . . . HB 227
40-5-1068 . . . . . formerly 40-5-194(8)-(9) . . . . . Ch. 174 . . . . . HB 227
40-5-1069. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1070. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1073. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1074. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1075. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1076. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1077. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1078. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1079. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1080. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1081. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1082. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1083. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1084. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1085. . . . . enacted . . . . . Ch. 174 . . . . . HB 227
40-5-1088 . . . . . formerly 40-5-153 . . . . . Ch. 174 . . . . . HB 227
40-5-1089 . . . . . formerly 40-5-154 . . . . . Ch. 174 . . . . . HB 227
40-5-1092 . . . . . formerly 40-5-197 . . . . . Ch. 174 . . . . . HB 227
40-5-157(1) . . . . amended and renumbered 40-5-1046 . . . . . Ch. 174 . . . . . HB 227
(2)-(4) . amended and renumbered 40-5-1047 . . . . . Ch. 174 . . . . . HB 227
(5) . . . . amended and renumbered 40-5-1048 . . . . . Ch. 174 . . . . . HB 227
(6) . . . . amended and renumbered 40-5-1049 . . . . . Ch. 174 . . . . . HB 227
(7) . . . . amended and renumbered 40-5-1050 . . . . . Ch. 174 . . . . . HB 227
(8) . . . . amended and renumbered 40-5-1051 . . . . . Ch. 174 . . . . . HB 227
40-5-194(1)-(6) . amended and renumbered 40-5-1065 . . . . . Ch. 174 . . . . . HB 227
(7) . . . . amended and renumbered 40-5-1067 . . . . . Ch. 174 . . . . . HB 227
(8)-(9) . amended and renumbered 40-5-1068 . . . . . Ch. 174 . . . . . HB 227
40-9-102 . . . . . amended . . . . . Ch. 112 . . . . . HB 165
41-2-103 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
41-3-205 . . . . . amended . . . . . Ch. 354 . . . . . HB 472
41-3-208 . . . . . amended . . . . . Ch. 354 . . . . . HB 472
41-3-209. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-301 . . . . . amended . . . . . Ch. 376 . . . . . HB 612
41-3-305. . . . . enacted . . . . . Ch. 376 . . . . . HB 612
41-3-1208. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-1209. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-1210. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-1211. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-1212. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-3-1213. . . . . enacted . . . . . Ch. 354 . . . . . HB 472
41-5-103 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-112 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-121 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-130 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-131 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-132 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-208 . . . . . amended . . . . . Ch. 51 . . . . . HB 134
41-5-1504 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-1512 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-1513 . . . . . amended . . . . . Ch. 143 . . . . . HB 233
41-5-2003 . . . . . amended . . . . . Ch. 143 . . . . . HB 233

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41-5-2005	amended	Ch. 143	HB 233
41-5-2006	amended	Ch. 143	HB 233
41-5-2011	amended	Ch. 143	HB 233
41-5-2012	amended	Ch. 143	HB 233
42-2-409	amended	Ch. 162	HB 397
42-6-102	amended	Ch. 162	HB 397
42-6-109	amended	Ch. 162	HB 397
44-2-502	amended	Ch. 79	SB 67
44-2-505	amended	Ch. 79	SB 67
44-3-301	amended	Ch. 450	HB 512
44-4-403	amended	Ch. 196	HB 100
44-4-1202	amended	Ch. 312	HB 491
44-4-1203	amended	Ch. 312	HB 491
44-4-1205	amended	Ch. 312	HB 491
44-4-1502	enacted	Ch. 285	HB 89
44-4-1503	enacted	Ch. 285	HB 89
44-4-1504	enacted	Ch. 285	HB 89
44-5-103	amended	Ch. 161	HB 382
44-5-311	amended	Ch. 285	HB 89
44-10-202	amended	Ch. 331	SB 356
44-12-101	amended	Ch. 421	HB 463
44-12-102	amended	Ch. 421	HB 463
44-12-103	amended	Ch. 421	HB 463
44-12-201	repealed	Ch. 421	HB 463
44-12-202	repealed	Ch. 421	HB 463
44-12-203	repealed	Ch. 421	HB 463
44-12-204	repealed	Ch. 421	HB 463
44-12-205	amended and renumbered 44-12-212	Ch. 421	HB 463
44-12-206	renumbered 44-12-213	Ch. 421	HB 463
44-12-207	enacted	Ch. 421	HB 463
44-12-208	enacted	Ch. 421	HB 463
44-12-209	enacted	Ch. 421	HB 463
44-12-210	enacted	Ch. 421	HB 463
44-12-211	enacted	Ch. 421	HB 463
44-12-212	formerly 44-12-205	Ch. 421	HB 463
44-12-213	formerly 44-12-206	Ch. 421	HB 463
45-2-101	amended	Ch. 161	HB 382
45-2-211	amended	Ch. 161	HB 382
45-5-209	amended	Ch. 328	SB 318
45-5-223	amended	Ch. 75	SB 50
45-5-305	repealed	Ch. 285	HB 89
45-5-306	repealed	Ch. 285	HB 89
45-5-310	repealed	Ch. 285	HB 89
45-5-311	repealed	Ch. 285	HB 89
45-5-501	amended	Ch. 161	HB 382
45-5-504	amended	Ch. 144	SB 60
45-5-513	enacted	Ch. 412	HB 219
45-5-624	amended	Ch. 152	HB 412
45-5-637	amended	Ch. 337	SB 66
45-5-701	enacted	Ch. 285	HB 89
45-5-702	enacted	Ch. 285	HB 89
45-5-703	enacted	Ch. 285	HB 89
45-5-704	enacted	Ch. 285	HB 89
45-5-705	enacted	Ch. 285	HB 89
45-5-706	enacted	Ch. 285	HB 89
45-5-707	enacted	Ch. 285	HB 89
45-5-708	enacted	Ch. 285	HB 89
45-5-709	enacted	Ch. 285	HB 89
45-5-710	enacted	Ch. 285	HB 89
45-6-328	amended	Ch. 421	HB 463
45-6-332	amended	Ch. 175	HB 232
45-6-333	enacted	Ch. 180	HB 410

45-7-309 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
45-7-601. . . . . enacted . . . . . Ch. 25 . . . . . HB 32
45-8-321 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
45-8-322 . . . . . amended . . . . . Ch. 134 . . . . . SB 131
45-8-323 . . . . . amended . . . . . Ch. 134 . . . . . SB 131
45-9-203 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
45-9-206 . . . . . amended . . . . . Ch. 421 . . . . . HB 463
46-5-221 . . . . . amended . . . . . Ch. 22 . . . . . SB 26
46-6-311 . . . . . amended . . . . . Ch. 328 . . . . . SB 318
46-8-113 . . . . . amended . . . . . Ch. 17 . . . . . HB 143
46-8-114 . . . . . amended . . . . . Ch. 17 . . . . . HB 143
46-9-302 . . . . . amended . . . . . Ch. 328 . . . . . SB 318
46-11-701 . . . . . amended . . . . . Ch. 164 . . . . . HB 518
46-14-101 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-102 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-103 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-202 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-204 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-206 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-214 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
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46-14-301 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
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46-14-304 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-311 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
46-14-312 . . . . . amended . . . . . Ch. 161 . . . . . HB 382
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46-18-201 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
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46-18-203 . . . . . amended . . . . . Ch. 285 . . . . . HB 89
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46-18-226. . . . . enacted . . . . . Ch. 159 . . . . . HB 197
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46-18-243 . . . . . amended . . . . . Ch. 103 . . . . . HB 466
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46-18-256 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
46-18-608 . . . . . amended . . . . . Ch. 285 . . . . . HB 89
46-21-110 . . . . . amended . . . . . Ch. 313 . . . . . HB 516
46-23-103 . . . . . amended . . . . . Ch. 96 . . . . . HB 43
46-23-104 . . . . . amended . . . . . Ch. 96 . . . . . HB 43
46-23-110 . . . . . amended . . . . . Ch. 348 . . . . . HB 123
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46-23-201 . . . . . amended . . . . . Ch. 198 . . . . . HB 135
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46-23-208. . . . . enacted . . . . . Ch. 198 . . . . . HB 135
46-23-215 . . . . . amended . . . . . Ch. 113 . . . . . HB 186
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46-23-302 . . . . . amended . . . . . Ch. 96 . . . . . HB 43
46-23-307 . . . . . amended . . . . . Ch. 96 . . . . . HB 43

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	amended	Ch. 144	SB	60
	amended	Ch. 182	HB	482
	amended	Ch. 285	HB	89
46-23-504	amended	Ch. 110	HB	88
46-23-509	amended	Ch. 110	HB	88
46-23-520	amended	Ch. 412	HB	219
46-23-1011	amended	Ch. 113	HB	186
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46-23-1027	amended	Ch. 55	SB	65
46-24-203	amended	Ch. 113	HB	186
46-24-212	amended	Ch. 113	HB	186
46-24-213	amended	Ch. 37	HB	136
47-1-111	amended	Ch. 16	HB	139
	amended	Ch. 53	SB	59
47-1-216	amended	Ch. 100	HB	133
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50-1-115	enacted	Ch. 291	HB	606
50-2-109	amended	Ch. 55	SB	65
50-12-101	enacted	Ch. 135	SB	142
50-12-102	enacted	Ch. 135	SB	142
50-12-103	enacted	Ch. 135	SB	142
50-12-104	enacted	Ch. 135	SB	142
50-12-105	enacted	Ch. 135	SB	142
50-12-106	enacted	Ch. 135	SB	142
50-12-107	enacted	Ch. 135	SB	142
50-12-108	enacted	Ch. 135	SB	142
50-12-109	enacted	Ch. 135	SB	142
50-12-110	enacted	Ch. 135	SB	142
50-15-111	amended	Ch. 380	HB	223
50-15-223	amended	Ch. 162	HB	397
50-31-103	amended	Ch. 239	HB	478
50-31-307	amended	Ch. 206	SB	8
50-31-308	amended	Ch. 206	SB	8
50-32-208	amended	Ch. 206	SB	8
50-32-501	amended	Ch. 251	SB	48
50-32-502	amended	Ch. 251	SB	48
50-32-503	enacted	Ch. 251	SB	48
50-46-309	amended	Ch. 239	HB	478
50-50-101	amended	Ch. 239	HB	478
50-50-102	amended (void Oct. 1, 2015 - sec. 3, Ch. 185)	Ch. 185	SB	31
	amended	Ch. 239	HB	478
50-50-103	amended	Ch. 239	HB	478
50-50-105	amended	Ch. 239	HB	478
50-50-109	amended	Ch. 239	HB	478
50-50-110	amended	Ch. 239	HB	478
50-50-116	enacted	Ch. 239	HB	478
50-50-117	enacted	Ch. 239	HB	478
50-50-120	enacted	Ch. 239	HB	478
50-50-121	enacted	Ch. 239	HB	478
50-50-201	amended	Ch. 239	HB	478
50-50-202	amended (void Oct. 1, 2015 - sec. 3, Ch. 185)	Ch. 185	SB	31
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50-50-203	amended	Ch. 239	HB	478
50-50-205	amended	Ch. 239	HB	478
50-50-208	amended	Ch. 239	HB	478
50-50-209	amended	Ch. 239	HB	478
50-50-211	amended	Ch. 239	HB	478
50-50-212	amended	Ch. 239	HB	478
50-50-213	amended	Ch. 239	HB	478
50-50-214	amended	Ch. 239	HB	478
50-50-215	amended	Ch. 239	HB	478
50-50-301	amended	Ch. 239	HB	478

50-50-302	amended	Ch. 239	HB 478
50-50-303	amended	Ch. 239	HB 478
50-50-305	amended	Ch. 239	HB 478
50-51-102	amended	Ch. 177	HB 285
50-51-114	amended	Ch. 388	SB 175
50-51-115	amended	Ch. 388	SB 175
50-57-102	amended	Ch. 239	HB 478
50-63-104	amended	Ch. 389	SB 188
50-63-201	amended	Ch. 94	HB 161
50-71-113	amended	Ch. 365	SB 259
50-71-119	amended	Ch. 365	SB 259
50-71-128	enacted	Ch. 365	SB 259
50-72-106	amended	Ch. 365	SB 259
50-73-107	amended	Ch. 365	SB 259
50-74-219	amended	Ch. 46	SB 71
50-76-110	amended	Ch. 45	SB 70
52-3-825	amended	Ch. 180	HB 410
53-1-104	amended	Ch. 161	HB 382
53-1-107	amended	Ch. 244	SB 101
53-1-203	amended	Ch. 143	HB 233
53-2-215	amended	Ch. 63	HB 103
53-4-209	amended	Ch. 55	SB 65
53-4-1007	amended	Ch. 63	HB 103
53-6-111	amended	Ch. 453	SB 336
53-6-113	amended	Ch. 287	HB 337
53-6-131	amended	Ch. 287	HB 337
53-6-196	enacted	Ch. 453	SB 336
53-6-402	amended	Ch. 324	SB 216
53-6-405	enacted	Ch. 324	SB 216
53-6-406	enacted	Ch. 324	SB 216
53-6-1301	enacted	Ch. 368	SB 405
53-6-1302	enacted	Ch. 368	SB 405
53-6-1303	enacted	Ch. 368	SB 405
53-6-1304	enacted	Ch. 368	SB 405
53-6-1305	enacted	Ch. 368	SB 405
53-6-1306	enacted	Ch. 368	SB 405
53-6-1307	enacted	Ch. 368	SB 405
53-6-1311	enacted	Ch. 368	SB 405
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53-6-1313	enacted	Ch. 368	SB 405
53-6-1316	enacted	Ch. 368	SB 405
53-6-1317	enacted	Ch. 368	SB 405
53-6-1318	enacted	Ch. 368	SB 405
53-6-2101	enacted	Ch. 265	HB 422
53-6-2102	enacted	Ch. 265	HB 422
53-6-2103	enacted	Ch. 265	HB 422
53-20-102	amended	Ch. 444	SB 411
53-20-104	amended	Ch. 444	SB 411
53-20-125	amended	Ch. 444	SB 411
53-20-126	amended	Ch. 373	HB 468
53-20-129	amended	Ch. 444	SB 411
53-20-146	amended	Ch. 444	SB 411
53-20-148	amended	Ch. 444	SB 411
53-20-161	amended	Ch. 444	SB 411
53-20-163	amended	Ch. 204	HB 507
	amended	Ch. 444	SB 411
53-20-202	amended	Ch. 451	SB 233
53-20-214	amended	Ch. 444	SB 411
53-20-223	enacted	Ch. 451	SB 233
53-21-1108	amended	Ch. 348	HB 123
53-21-1202	amended	Ch. 207	HB 35
53-21-1203	amended	Ch. 207	HB 35
	amended	Ch. 403	HB 33

53-21-1204	amended	Ch. 207	HB 35
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53-25-102	enacted	Ch. 436	SB 399
53-25-103	enacted	Ch. 436	SB 399
53-25-104	enacted	Ch. 436	SB 399
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53-25-109	enacted	Ch. 436	SB 399
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53-25-117	enacted	Ch. 436	SB 399
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53-25-119	enacted	Ch. 436	SB 399
53-25-120	enacted	Ch. 436	SB 399
53-25-121	enacted	Ch. 436	SB 399
60-1-222	enacted	Ch. 148	SB 332
60-2-243	repealed	Ch. 91	HB 83
60-3-201	amended	Ch. 220	HB 99
60-3-202	amended	Ch. 220	HB 99
61-1-101	amended	Ch. 120	SB 110
	amended	Ch. 199	HB 241
	amended	Ch. 374	HB 486
61-2-108	amended	Ch. 141	HB 132
61-3-103	amended	Ch. 398	SB 393
61-3-203	amended	Ch. 398	SB 393
61-3-204	amended	Ch. 398	SB 393
61-3-206	amended	Ch. 231	HB 573
61-3-216	amended	Ch. 231	HB 573
61-3-224	amended	Ch. 120	SB 110
61-3-509	amended	Ch. 231	HB 573
61-3-550	amended	Ch. 398	SB 393
61-3-701	amended	Ch. 153	HB 414
61-4-104	amended	Ch. 231	HB 573
	amended	Ch. 254	HB 259
61-5-105	amended	Ch. 358	SB 93
61-5-111	amended	Ch. 398	SB 393
61-5-208	amended	Ch. 424	HB 488
61-5-212	amended	Ch. 358	SB 93
61-5-231	amended	Ch. 424	HB 488
61-5-232	enacted	Ch. 358	SB 93
61-6-103	amended	Ch. 216	HB 375
61-6-157	amended	Ch. 348	HB 123
61-6-302	amended	Ch. 146	SB 184
	amended	Ch. 369	HB 118
61-6-309	amended	Ch. 146	SB 184
61-8-102	amended	Ch. 255	HB 280
	amended	Ch. 374	HB 486
61-8-303	amended	Ch. 395	SB 375
61-8-309	amended	Ch. 395	SB 375
61-8-312	amended	Ch. 395	SB 375
61-8-324	amended	Ch. 255	HB 280
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61-8-369	amended	Ch. 449	HB 140
61-8-401	amended	Ch. 424	HB 488
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61-8-405	amended	Ch. 424	HB 488
61-8-408	amended	Ch. 424	HB 488
61-8-409	amended	Ch. 424	HB 488
61-8-421	amended	Ch. 421	HB 463
	amended	Ch. 424	HB 488
61-8-442	amended	Ch. 424	HB 488

61-8-465	amended	Ch. 424	HB 488
61-8-601	amended	Ch. 374	HB 486
61-8-602	amended	Ch. 374	HB 486
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61-8-605	amended	Ch. 255	HB 280
	amended	Ch. 374	HB 486
61-8-606	amended	Ch. 255	HB 280
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61-8-607	amended	Ch. 255	HB 280
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61-8-608	amended	Ch. 374	HB 486
61-8-609	amended	Ch. 374	HB 486
61-8-714	amended	Ch. 424	HB 488
61-8-722	amended	Ch. 424	HB 488
61-8-725	amended	Ch. 395	SB 375
61-8-731	amended	Ch. 197	HB 111
	amended	Ch. 424	HB 488
61-8-732	amended	Ch. 424	HB 488
61-8-733	amended	Ch. 424	HB 488
61-8-734	amended	Ch. 424	HB 488
61-8-741	amended	Ch. 424	HB 488
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61-9-406	amended	Ch. 93	HB 98
61-9-520	amended	Ch. 93	HB 98
61-10-107	amended	Ch. 219	SB 338
61-10-121	amended	Ch. 55	SB 65
	amended	Ch. 173	HB 222
61-10-126	amended	Ch. 126	HB 246
61-10-154	amended	Ch. 3	SB 33
61-11-203	amended	Ch. 395	SB 375
61-11-510	amended	Ch. 348	HB 123
61-12-101	amended	Ch. 173	HB 222
	amended	Ch. 374	HB 486
61-12-206	amended	Ch. 220	HB 99
61-12-1001	enacted	Ch. 272	SB 209
61-12-1002	enacted	Ch. 272	SB 209
61-12-1003	enacted	Ch. 272	SB 209
61-12-1004	enacted	Ch. 272	SB 209
67-1-301	amended	Ch. 220	HB 99
69-1-106	amended	Ch. 226	HB 353
69-3-603	amended	Ch. 234	SB 327
69-3-1408	amended	Ch. 19	SB 10
69-8-402	amended (void - sec. 3, Ch. 252)	Ch. 20	SB 11
	amended	Ch. 252	SB 150
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69-8-412	amended	Ch. 252	SB 150
69-8-414	amended	Ch. 393	SB 312
69-12-101	amended	Ch. 456	SB 396
69-12-102	amended	Ch. 456	SB 396
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69-12-209	amended	Ch. 104	HB 61
69-12-210	amended	Ch. 456	SB 396
69-12-301	amended	Ch. 456	SB 396
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69-12-312	amended	Ch. 456	SB 396
69-12-313	amended	Ch. 456	SB 396
69-12-314	amended	Ch. 456	SB 396
69-12-321	amended	Ch. 456	SB 396
69-12-323	amended	Ch. 456	SB 396
69-12-324	amended	Ch. 456	SB 396
69-12-328	repealed	Ch. 456	SB 396

69-12-340	enacted	Ch. 456	SB 396
69-12-341	enacted	Ch. 456	SB 396
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69-12-343	enacted	Ch. 456	SB 396
69-12-344	enacted	Ch. 456	SB 396
69-12-345	enacted	Ch. 456	SB 396
69-12-404	amended	Ch. 456	SB 396
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69-12-407	amended	Ch. 456	SB 396
69-12-415	amended	Ch. 456	SB 396
69-12-501	amended	Ch. 456	SB 396
69-13-302	amended	Ch. 55	SB 65
69-14-101	repealed	Ch. 104	HB 61
69-14-102	amended	Ch. 104	HB 61
69-14-104	enacted	Ch. 104	HB 61
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69-14-111	amended	Ch. 104	HB 61
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69-14-501	repealed	Ch. 104	HB 61
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69-14-503	repealed	Ch. 104	HB	61
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69-14-505	repealed	Ch. 104	HB	61
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69-14-509	repealed	Ch. 104	HB	61
69-14-510	repealed	Ch. 104	HB	61
69-14-511	repealed	Ch. 104	HB	61
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70-24-111	enacted	Ch. 297	SB	384
70-24-427	amended	Ch. 454	SB	385
70-33-103	amended	Ch. 454	SB	385
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71-1-316	amended	Ch. 213	HB	164
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71-3-1112	amended	Ch. 224	HB	319
71-3-1114	amended	Ch. 224	HB	319
71-3-1115	amended	Ch. 224	HB	319
71-3-1117	amended	Ch. 224	HB	319
71-3-1118	amended	Ch. 224	HB	319
72-2-618	repealed	Ch. 293	SB	253
72-2-714	repealed	Ch. 293	SB	253
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72-5-446	amended	Ch. 55	SB 65
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72-38-802	amended	Ch. 55	SB 65
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72-38-1008	amended	Ch. 181	HB 436
72-38-1013	amended	Ch. 181	HB 436
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75-2-502	amended	Ch. 309	HB 434
75-2-505	enacted	Ch. 309	HB 434
75-5-203	amended	Ch. 378	SB 325
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75-5-222	enacted	Ch. 378	SB 325
75-5-302	amended	Ch. 131	SB 97
75-5-309	repealed	Ch. 378	SB 325
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75-5-319	enacted	Ch. 415	HB 270
75-5-611	amended	Ch. 443	SB 387
75-5-702	amended	Ch. 319	SB 112
75-5-703	amended	Ch. 122	SB 82
75-5-1113	amended	Ch. 72	SB 28
75-5-1121	amended	Ch. 74	SB 32
75-6-224	amended	Ch. 72	SB 28
75-6-225	amended	Ch. 74	SB 32
75-10-403	amended	Ch. 360	SB 136
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75-10-704	amended	Ch. 387	SB 20
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75-10-743	amended	Ch. 119	SB 96
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75-11-302	amended	Ch. 220	HB 99
75-11-307	amended	Ch. 107	SB 49
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75-11-309	amended	Ch. 296	SB 355
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75-11-508	amended	Ch. 107	SB 49
76-2-226	amended	Ch. 171	HB 193
76-2-227	amended	Ch. 171	HB 193
76-2-228	amended	Ch. 171	HB 193
76-5-1106	amended	Ch. 49	HB 84
76-13-117	enacted	Ch. 425	HB 510
76-13-118	enacted	Ch. 425	HB 510
76-13-154	amended	Ch. 278	SB 256
76-13-201	amended	Ch. 334	SB 47
76-15-302	repealed	Ch. 49	HB 84
76-15-303	amended	Ch. 49	HB 84
76-15-304	amended	Ch. 49	HB 84
76-15-305	amended	Ch. 49	HB 84
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76-15-324	enacted	Ch. 262	HB 334
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76-15-1001	enacted	Ch. 155	SB 88
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76-15-1005	enacted	Ch. 155	SB 88
76-15-1006	enacted	Ch. 155	SB 88
76-15-1011	enacted	Ch. 155	SB 88
76-15-1012	enacted	Ch. 155	SB 88
76-15-1013	enacted	Ch. 155	SB 88
76-15-1014	enacted	Ch. 155	SB 88
76-16-112	amended	Ch. 114	HB 206
76-16-322	amended	Ch. 249	HB 557
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76-22-104	enacted	Ch. 445	SB 261
76-22-105	enacted	Ch. 445	SB 261
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77-1-103 . . . . . amended . . . . . Ch. 55 . . . . . SB 65
77-1-130 . . . . . amended . . . . . Ch. 325 . . . . . SB 229
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77-1-208 . . . . . amended . . . . . Ch. 361 . . . . . SB 157
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90-7-220	amended	Ch. 444	SB 411
90-9-201	amended	Ch. 30	HB 91

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Laws of 1997			
Ch. 461, sec. 5	amended	325	SB 229
Laws of 1999			
Ch. 495, sec. 6	amended	305	HB 180
Laws of 2001			
Ch. 70, sec. 1	amended	305	HB 180
Ch. 270, sec. 6	amended	325	SB 229
Laws of 2005			
Ch. 57, sec. 2 - 4	amended	325	SB 229
Ch. 288, sec. 18	amended	269	SB 57
Laws of 2007			
Ch. 319, sec. 11	amended	269	SB 57
Laws of 2009			
Ch. 129, sec. 5	repealed	189	SB 141
Ch. 374, sec. 14	amended	292	SB 68
Ch. 374, sec. 14	amended	285	HB 89
Ch. 433, sec. 7	amended	352	HB 421
Laws of 2011			
Ch. 241, sec. 20	amended	357	SB 7
Ch. 325, sec. 2 - 7	amended	325	SB 229
Ch. 389, sec. 15, 16	amended	305	HB 180
Laws of 2013			
Ch. 238, sec. 6	repealed	189	SB 141
Ch. 241, sec. 11	amended	136	SB 152
Ch. 318, sec. 6	repealed	179	HB 396
Ch. 321, sec. 4	repealed	277	SB 240
Ch. 346, sec. 6	amended	392	SB 309
Ch. 364, sec. 9, 12	amended	323	SB 213
Ch. 390, sec. 8 - 10	amended	305	HB 180
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Ch.	199		HB	241	10/01/2015
Ch.	200		HB	272	10/01/2015
Ch.	201		HB	367	10/01/2015
Ch.	202		HB	372	04/08/2015
Ch.	203		HB	429	10/01/2015
Ch.	204		HB	507	04/08/2015
Ch.	205		HB	537	04/08/2015
Ch.	206		SB	8	04/08/2015
Ch.	207		HB	35	07/01/2015
Ch.	208		HB	47	07/01/2015
Ch.	209		HB	69	01/01/2016
Ch.	210		HB	85	07/01/2015
Ch.	211		HB	102	04/09/2015
Ch.	212		HB	117	04/09/2015
Ch.	213		HB	164	10/01/2015
Ch.	214		HB	198	10/01/2015
Ch.	215		HB	207	10/01/2015

Ch.	216		HB	375	10/01/2015
Ch.	217		HB	392	04/09/2015
Ch.	218		HB	461	07/01/2015
Ch.	219		SB	338	10/01/2015
Ch.	220		HB	99	10/01/2015
Ch.	221		HB	168	04/10/2015
Ch.	222		HB	208	10/01/2015
Ch.	223		HB	240	07/01/2015
Ch.	224		HB	319	10/01/2015
Ch.	225		HB	324	04/10/2015
Ch.	226		HB	353	04/10/2015
Ch.	227		HB	363	04/10/2015
Ch.	228		HB	431	07/01/2015
Ch.	229		HB	536	04/10/2015
Ch.	230		HB	555	10/01/2015
Ch.	231		HB	573	10/01/2015
Ch.	232		SB	140	10/01/2015
Ch.	233		SB	144	07/01/2015
Ch.	234		SB	327	04/10/2015
Ch.	235		HB	68	04/13/2015
Ch.	236		HB	209	10/01/2015
Ch.	237		HB	288	07/01/2015
Ch.	238		HB	331	04/13/2015
Ch.	239		HB	478	10/01/2015
Ch.	240		HB	529	10/01/2015
Ch.	241		HB	580	10/01/2015
Ch.	242		HB	439	04/15/2015
Ch.	243		HB	578	10/01/2015
Ch.	244		SB	101	10/01/2015
Ch.	245		SB	255	07/01/2015
Ch.	246		HB	342	10/01/2015
Ch.	247		HB	400	10/01/2015
Ch.	248		HB	101	01/01/2016
Ch.	249		HB	557	04/17/2015
Ch.	250		HB	564	10/01/2015
Ch.	251		SB	48	01/01/2016
Ch.	252		SB	150	04/17/2015
Ch.	253		HB	284	10/01/2015
Ch.	254		HB	259	10/01/2015
Ch.	255		HB	280	10/01/2015
Ch.	256		HB	318	01/01/2016
Ch.	257		HB	460	10/01/2015
Ch.	258		SB	238	10/01/2015
Ch.	259		SB	289	10/01/2015
Ch.	260		HB	250	04/23/2015
Ch.	261		HB	330	10/01/2015
Ch.	262		HB	334	07/01/2015
Ch.	263		HB	343	04/23/2015
Ch.	264		HB	350	04/23/2015
Ch.	265	§§ 1-4, 6, and 7	HB	422	07/01/2015
		§ 5			Section 5 was line-item vetoed
Ch.	266		HB	447	04/23/2015
Ch.	267		HB	503	04/23/2015
Ch.	268		SB	34	04/23/2015
Ch.	269		SB	57	07/01/2015
Ch.	270		SB	168	08/01/2015
Ch.	271		SB	183	07/01/2015
Ch.	272		SB	209	10/01/2015
Ch.	273		SB	219	10/01/2015
Ch.	274		SB	220	07/01/2015
Ch.	275		SB	221	04/23/2015

Ch.	276		SB	237	10/01/2015
Ch.	277		SB	240	04/23/2015
Ch.	278		SB	256	04/23/2015
Ch.	279		SB	270	04/23/2015
Ch.	280		SB	307	04/23/2015
Ch.	281		SB	330	04/23/2015
Ch.	282		SB	333	10/01/2015
Ch.	283		SB	361	10/01/2015
Ch.	284		HB	60	10/01/2015
Ch.	285		HB	89	07/01/2015
Ch.	286		HB	196	07/01/2015
Ch.	287		HB	337	07/01/2015
Ch.	288		HB	358	10/01/2015
Ch.	289		HB	525	07/01/2015
Ch.	290		HB	553	10/01/2015
Ch.	291		HB	606	07/01/2015
Ch.	292		SB	68	04/24/2015
Ch.	293		SB	253	10/01/2015
Ch.	294		SB	262	04/24/2015
Ch.	295		SB	294	04/24/2015
Ch.	296		SB	355	04/24/2015
Ch.	297		SB	384	10/01/2015
Ch.	298		HB	4	04/27/2015
Ch.	299		HB	7	07/01/2015
Ch.	300		HB	11	07/01/2015
Ch.	301		HB	411	07/01/2015
Ch.	302		SB	279	Effective upon approval by the electorate
Ch.	303		HB	29	10/01/2015
Ch.	304		HB	78	10/01/2015
Ch.	305		HB	180	10/01/2015
Ch.	306		HB	258	10/01/2015
Ch.	307		HB	373	04/27/2015
Ch.	308	§§ 3, 4, 7, and 9-17	HB	379	04/27/2015
		§§ 1, 2, 5, 6, 8, and 18			01/01/2017
Ch.	309		HB	434	04/27/2015
Ch.	310		HB	448	04/27/2015
Ch.	311		HB	470	04/27/2015
Ch.	312	§§ 1, 2(1)-2(6), 3, and 4	HB	491	04/27/2015
		§§ 2(7) and (8)			10/01/2015
Ch.	313		HB	516	04/27/2015
Ch.	314		HB	523	10/01/2015
Ch.	315		HB	538	07/01/2015
Ch.	316		HB	542	04/27/2015
Ch.	317		HB	550	10/01/2015
Ch.	318		HB	554	10/01/2015
Ch.	319		SB	112	04/27/2015
Ch.	320		SB	123	01/01/2016
Ch.	321		SB	176	10/01/2015
Ch.	322		SB	191	04/27/2015
Ch.	323		SB	213	04/27/2015
Ch.	324		SB	216	10/01/2015
Ch.	325		SB	229	04/27/2015
Ch.	326		SB	230	10/01/2015
Ch.	327		SB	232	04/27/2015
Ch.	328		SB	318	10/01/2015
Ch.	329		SB	335	10/01/2015
Ch.	330		SB	347	07/01/2015
Ch.	331		SB	356	10/01/2015
Ch.	332		SB	368	07/01/2015
Ch.	333		SB	379	04/27/2015
Ch.	334		SB	47	04/28/2015

Ch.	335		SB	52	04/28/2015
Ch.	336		SB	54	04/28/2015
Ch.	337		SB	66	01/01/2016
Ch.	338		SB	91	04/28/2015
Ch.	339		SB	102	10/01/2015
Ch.	340		SB	169	04/28/2015
Ch.	341		SB	181	04/27/2015
Ch.	342		SB	192	04/28/2015
Ch.	343	§§ 1, 2, and 4-6	SB	224	04/23/2015
		§ 3			Section 3 was line-item vetoed
Ch.	344		SB	249	10/01/2015
Ch.	345		SB	298	04/27/2015
Ch.	346		SB	350	10/01/2015
Ch.	347		SB	367	07/01/2015
Ch.	348		HB	123	10/01/2015
Ch.	349		HB	145	07/01/2015
Ch.	350		HB	356	07/01/2015
Ch.	351		HB	374	07/01/2015
Ch.	352		HB	421	04/29/2015
Ch.	353		HB	430	07/01/2015
Ch.	354		HB	472	07/01/2015
Ch.	355		HB	483	01/01/2016
Ch.	356		HB	504	07/01/2015
Ch.	357		SB	7	07/01/2015
Ch.	358		SB	93	07/01/2015
Ch.	359		SB	128	04/29/2015
Ch.	360		SB	136	04/29/2015
Ch.	361		SB	157	04/29/2015
Ch.	362	§§ 1 and 3	SB	193	11/01/2015
		§ 2			02/01/2016
Ch.	363		SB	195	04/29/2015
Ch.	364		SB	258	10/01/2015
Ch.	365	§§ 10 and 11	SB	259	04/29/2015
		§§ 1-9			07/01/2015
Ch.	366		SB	308	04/29/2015
Ch.	367		SB	364	10/01/2015
Ch.	368	§§ 11, 19, 20, 21, and 27	SB	405	04/29/2015
		§§ 1-10, 12-18, 22-26, and 28			Effective upon approval by the U.S. department of health and human services of all waivers and approvals necessary to provide medicaid-funded services to individuals eligible pursuant to [section 4] in the manner provided for in [sections 1 through 17]
Ch.	369		HB	118	01/01/2016
Ch.	370		HB	119	04/30/2015
Ch.	371		HB	244	07/01/2015
Ch.	372		HB	389	04/30/2015
Ch.	373		HB	468	10/01/2015
Ch.	374		HB	486	10/01/2015
Ch.	375	§§ 1(1)-1(3)(b), (3)(c)(ii), and 2	HB	506	01/01/2016
		§ 1(3)(c)(i)			07/01/2018
Ch.	376		HB	612	07/01/2015
Ch.	377		SB	234	04/30/2015
Ch.	378		SB	325	10/01/2015
Ch.	379		SB	345	04/30/2015
Ch.	380		HB	223	05/04/2015
Ch.	381		HB	517	01/01/2016
Ch.	382		HB	577	10/01/2015

Ch.	383		HB	590	Effective upon the state receiving money from Bonneville Power Administration, the United States federal government, BC Hydro, the British Columbia provincial government, the federal government of Canada, or from another entity that benefits from the waters stored in Lincoln County through irrigation, navigation, recreation, hydropower generation, or other uses
Ch.	384		HB	604	05/04/2015
Ch.	385		HB	617	07/01/2015
Ch.	386	§§ 1, 2, 4, and 5	HB	627	05/04/2015
		§ 3			07/01/2015
Ch.	387		SB	20	07/01/2016 (In accordance with Ch. 438 coordination instruction)
Ch.	388		SB	175	05/04/2015
Ch.	389		SB	188	05/04/2015
Ch.	390		SB	293	05/03/2015
Ch.	391		SB	306	10/01/2015
Ch.	392		SB	309	01/01/2016
Ch.	393		SB	312	05/04/2015
Ch.	394		SB	326	05/04/2015
Ch.	395		SB	375	10/01/2015
Ch.	396		SB	380	07/01/2015
Ch.	397		SB	386	10/01/2015
Ch.	398	§§ 1-4 and 6	SB	393	10/01/2015
		§ 5			01/01/2017
Ch.	399		SB	409	10/01/2015
Ch.	400	§ 10	HB	2	05/05/2015
		§§ 1-9 and 11			07/01/2015
Ch.	401		HB	9	07/01/2015
Ch.	402		HB	28	10/01/2015
Ch.	403		HB	33	07/01/2015
Ch.	404		HB	34	07/01/2015
Ch.	405		HB	114	05/05/2015
Ch.	406		HB	115	10/01/2015
Ch.	407		HB	156	05/05/2015
Ch.	408		HB	150	10/01/2015
Ch.	409		HB	167	10/01/2015
Ch.	410		HB	204	05/05/2015
Ch.	411		HB	211	05/25/2015
Ch.	412		HB	219	05/05/2015
Ch.	413		HB	226	07/01/2015
Ch.	414		HB	228	07/01/2015
Ch.	415		HB	270	10/01/2015
Ch.	416		HB	300	10/01/2015
Ch.	417		HB	306	07/01/2015
Ch.	418		HB	359	10/01/2015
Ch.	419		HB	403	05/05/2015
Ch.	420		HB	454	10/01/2015
Ch.	421		HB	463	07/01/2015
Ch.	422		HB	464	10/01/2015
Ch.	423		HB	487	05/05/2015
Ch.	424		HB	488	05/05/2015
Ch.	425		HB	510	07/01/2015
Ch.	426		HB	559	05/05/2015

Ch.	427	§§ 1-5 and 7-10	HB	560	10/01/2015
		§ 6			10/01/2019
Ch.	428		SB	83	01/01/2016
Ch.	429		SB	100	05/05/2015
Ch.	430		SB	180	01/01/2016
Ch.	431		SB	211	10/01/2015
Ch.	432		SB	252	05/05/2015
Ch.	433	§§ 1-3 and 5-7	SB	260	05/05/2015
		§ 4			07/01/2016
Ch.	434		SB	378	10/01/2015
Ch.	435	§§ 1 and 3-5	SB	390	07/01/2015
		§ 2			Section 2 was line-item vetoed
Ch.	436		SB	399	05/05/2015
Ch.	437		SB	401	07/01/2015
Ch.	438		SB	418	05/05/2015
Ch.	439	§§ 1 and 3	HB	629	05/06/2015
		§ 2			07/01/2015
Ch.	440		SB	122	05/06/2015
Ch.	441		SB	212	10/01/2015
Ch.	442		SB	272	05/06/2015
Ch.	443		SB	387	10/01/2015
Ch.	444	§§ 1-5 and 7-19	SB	411	05/06/2015
		§ 6			Effective on the date that the Montana developmental center closes
Ch.	445		SB	261	05/07/2015
Ch.	446		HB	6	07/01/2015
Ch.	447		HB	8	07/01/2015
Ch.	448	§§ 7 and 11	HB	10	05/08/2015
		§§ 1-6 and 8-10			07/01/2015
Ch.	449	§§ 7, 15, 21, 27, 38, and 42	HB	140	05/08/2015
		§ 1			07/01/2015
		§§ 2-6, 8-14, 16-20, 22-26, 28-37, and 39-41			03/01/2016
Ch.	450		HB	512	07/01/2015
Ch.	451		SB	233	05/08/2015
Ch.	452		SB	283	07/01/2017
Ch.	453		SB	336	07/01/2015
Ch.	454		SB	385	10/01/2015
Ch.	455		SB	389	10/01/2015
Ch.	456		SB	396	07/01/2015
Ch.	457		SB	410	01/01/2016

EFFECTIVE DATES BY DATE

Effective Date	Chapter No.		Bill No.	
01/26/2015	Ch.	1	HB	1
02/12/2015	Ch.	4	HB	63
02/13/2015	Ch.	6	HB	121
02/13/2015	Ch.	7	HB	125
02/17/2015	Ch.	9	HB	56
02/17/2015	Ch.	11	HB	65
02/17/2015	Ch.	19	SB	10
02/17/2015	Ch.	20	SB	11
02/17/2015	Ch.	21	SB	15
02/17/2015	Ch.	22	SB	26
02/18/2015	Ch.	27	HB	52
02/18/2015	Ch.	28	HB	57
02/18/2015	Ch.	30	HB	91
02/18/2015	Ch.	31	HB	105

02/18/2015	Ch.	32		HB	108
02/18/2015	Ch.	36		HB	122
02/18/2015	Ch.	37		HB	136
02/18/2015	Ch.	41		SB	27
02/18/2015	Ch.	42		SB	35
02/18/2015	Ch.	43		SB	36
02/18/2015	Ch.	44		SB	46
02/25/2015	Ch.	50		HB	94
02/25/2015	Ch.	51		HB	134
02/25/2015	Ch.	52		SB	58
02/25/2015	Ch.	56	§§ 1, 2, and 4-6	SB	81
02/25/2015	Ch.	58		SB	117
02/27/2015	Ch.	61	§ 2 and 7	HB	38
02/27/2015	Ch.	63	§§ 1, 2, 4-18, 21, 23-32, 34, 35(1), 36, and 37	HB	103
02/27/2015	Ch.	66		HB	157
02/27/2015	Ch.	67		HB	195
02/27/2015	Ch.	68		HB	248
02/27/2015	Ch.	69		SB	1
02/27/2015	Ch.	70		SB	6
02/27/2015	Ch.	72		SB	28
02/27/2015	Ch.	73		SB	29
02/27/2015	Ch.	74		SB	32
02/27/2015	Ch.	75		SB	50
02/27/2015	Ch.	76		SB	51
02/27/2015	Ch.	77		SB	63
02/27/2015	Ch.	84		SB	113
02/27/2015	Ch.	85		SB	163
03/05/2015	Ch.	86		SB	135
03/16/2015	Ch.	88		SB	139
03/17/2015	Ch.	91		HB	83
03/18/2015	Ch.	93		HB	98
03/18/2015	Ch.	95		HB	260
03/20/2015	Ch.	97		HB	50
03/20/2015	Ch.	98		HB	53
03/20/2015	Ch.	101		HB	187
03/20/2015	Ch.	103		HB	466
03/23/2015	Ch.	107		SB	49
03/23/2015	Ch.	108		SB	56
03/23/2015	Ch.	109		SB	111
03/24/2015	Ch.	114		HB	206
03/24/2015	Ch.	115		HB	221
03/25/2015	Ch.	118		SB	80
03/25/2015	Ch.	119		SB	96
03/25/2015	Ch.	122		SB	82
03/27/2015	Ch.	126		HB	246
03/27/2015	Ch.	128		HB	387
03/27/2015	Ch.	135		SB	142
03/27/2015	Ch.	136		SB	152
03/27/2015	Ch.	148		SB	332
03/30/2015	Ch.	139		HB	95
03/30/2015	Ch.	140		HB	124
03/30/2015	Ch.	145		SB	94
03/31/2015	Ch.	151		HB	390
04/01/2015	Ch.	157		HB	87
04/01/2015	Ch.	161		HB	382
04/01/2015	Ch.	164		HB	518
04/01/2015	Ch.	165		HB	588
04/01/2015	Ch.	166		SB	41

04/01/2015	Ch.	168	SB	174	
04/02/2015	Ch.	172	HB	194	
04/02/2015	Ch.	177	HB	285	
04/02/2015	Ch.	182	HB	482	
04/02/2015	Ch.	183	HB	513	
04/02/2015	Ch.	185	SB	31	
04/02/2015	Ch.	186	SB	39	
04/02/2015	Ch.	189	SB	141	
04/04/2015	Ch.	191	SB	74	
04/08/2015	Ch.	192	HB	36	
04/08/2015	Ch.	194	HB	40	
04/08/2015	Ch.	196	HB	100	
04/08/2015	Ch.	202	HB	372	
04/08/2015	Ch.	204	HB	507	
04/08/2015	Ch.	205	HB	537	
04/08/2015	Ch.	206	SB	8	
04/09/2015	Ch.	211	HB	102	
04/09/2015	Ch.	212	HB	117	
04/09/2015	Ch.	217	HB	392	
04/10/2015	Ch.	221	HB	168	
04/10/2015	Ch.	225	HB	324	
04/10/2015	Ch.	226	HB	353	
04/10/2015	Ch.	227	HB	363	
04/10/2015	Ch.	229	HB	536	
04/10/2015	Ch.	234	SB	327	
04/13/2015	Ch.	235	HB	68	
04/13/2015	Ch.	238	HB	331	
04/15/2015	Ch.	242	HB	439	
04/17/2015	Ch.	249	HB	557	
04/17/2015	Ch.	252	SB	150	
04/23/2015	Ch.	260	HB	250	
04/23/2015	Ch.	263	HB	343	
04/23/2015	Ch.	264	HB	350	
04/23/2015	Ch.	266	HB	447	
04/23/2015	Ch.	267	HB	503	
04/23/2015	Ch.	268	SB	34	
04/23/2015	Ch.	275	SB	221	
04/23/2015	Ch.	277	SB	240	
04/23/2015	Ch.	278	SB	256	
04/23/2015	Ch.	279	SB	270	
04/23/2015	Ch.	280	SB	307	
04/23/2015	Ch.	281	SB	330	
04/23/2015	Ch.	343	SB	224	
		§§ 1, 2, and 4-6			
04/24/2015	Ch.	292	SB	68	
04/24/2015	Ch.	294	SB	262	
04/24/2015	Ch.	295	SB	294	
04/24/2015	Ch.	296	SB	355	
04/27/2015	Ch.	298	HB	4	
04/27/2015	Ch.	307	HB	373	
04/27/2015	Ch.	308	HB	379	
		§§ 3, 4, 7, and 9-17			
04/27/2015	Ch.	309	HB	434	
04/27/2015	Ch.	310	HB	448	
04/27/2015	Ch.	311	HB	470	
04/27/2015	Ch.	312	HB	491	
		§§ 1, 2(1)-2(6), 3, and 4			
04/27/2015	Ch.	313	HB	516	
04/27/2015	Ch.	316	HB	542	
04/27/2015	Ch.	319	SB	112	
04/27/2015	Ch.	322	SB	191	
04/27/2015	Ch.	323	SB	213	
04/27/2015	Ch.	325	SB	229	

04/27/2015	Ch.	327	SB	232	
04/27/2015	Ch.	333	SB	379	
04/27/2015	Ch.	341	SB	181	
04/27/2015	Ch.	345	SB	298	
04/28/2015	Ch.	334	SB	47	
04/28/2015	Ch.	335	SB	52	
04/28/2015	Ch.	336	SB	54	
04/28/2015	Ch.	338	SB	91	
04/28/2015	Ch.	340	SB	169	
04/28/2015	Ch.	342	SB	192	
04/29/2015	Ch.	352	HB	421	
04/29/2015	Ch.	359	SB	128	
04/29/2015	Ch.	360	SB	136	
04/29/2015	Ch.	361	SB	157	
04/29/2015	Ch.	363	SB	195	
04/29/2015	Ch.	365	SB	259	
		§§ 10 and 11			
04/29/2015	Ch.	366	SB	308	
04/29/2015	Ch.	368	SB	405	
		§§ 11, 19, 20, 21, and 27			
04/30/2015	Ch.	370	HB	119	
04/30/2015	Ch.	372	HB	389	
04/30/2015	Ch.	377	SB	234	
04/30/2015	Ch.	379	SB	345	
05/03/2015	Ch.	390	SB	293	
05/04/2015	Ch.	380	HB	223	
05/04/2015	Ch.	384	HB	604	
05/04/2015	Ch.	386	HB	627	
		§§ 1, 2, 4, and 5			
05/04/2015	Ch.	388	SB	175	
05/04/2015	Ch.	389	SB	188	
05/04/2015	Ch.	393	SB	312	
05/04/2015	Ch.	394	SB	326	
05/05/2015	Ch.	400	HB	2	
		§ 10			
05/05/2015	Ch.	405	HB	114	
05/05/2015	Ch.	407	HB	156	
05/05/2015	Ch.	410	HB	204	
05/05/2015	Ch.	412	HB	219	
05/05/2015	Ch.	419	HB	403	
05/05/2015	Ch.	423	HB	487	
05/05/2015	Ch.	424	HB	488	
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05/05/2015	Ch.	429	SB	100	
05/05/2015	Ch.	432	SB	252	
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		§§ 1-3 and 5-7			
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			§§ 1-4 and 6		
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			§§ 1-5 and 7-10		
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			(In accordance with Ch. 438 coordination instruction)		
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10/01/2019 . . . . . Ch. 427 . . . . . HB 560
§ 6

? . . . . . Ch. 49 . . . . . HB 84
(The day after the date of the 2015 statewide general election)

? . . . . . Ch. 265 . . . . . HB 422
(§ 5, Section 5 was line-item vetoed)

? . . . . . Ch. 302 . . . . . SB 279
(Effective upon approval by the electorate)

? . . . . . Ch. 343 . . . . . SB 224
(§ 3, Section 3 was line-item vetoed)

? . . . . . Ch. 368 . . . . . SB 405
(§§ 1-10, 12-18, 22-26 and 28 effective upon approval by the U.S. department of health and human services of all waivers and approvals necessary to provide medicaid-funded services to individuals eligible pursuant to [section 4] in the manner provided for in [sections 1 through 17])

? . . . . . Ch. 383 . . . . . HB 590
(Effective upon the state receiving money from Bonneville Power Administration, the United States federal government, BC Hydro, the British Columbia provincial government, the federal government of Canada, or from another entity that benefits from the waters stored in Lincoln County through irrigation, navigation, recreation, hydropower gener-, ation or other uses)

? . . . . . Ch. 435 . . . . . SB 390
(§ 2, Section 2 was line-item vetoed)

? . . . . . Ch. 444 . . . . . SB 411
(§ 6, Effective on the date that the Montana developmental center closes)

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2	1	15-1-121
3	1	15-1-230
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	3	15-32-703
	4	15-70-369
	5	61-10-154
4	1	37-67-101
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	3	37-67-202
	4	37-67-322
	5	37-67-323
	6	37-67-324
	7	37-67-325
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	12	37-67-314
	13	37-67-328
	14	37-67-329
	15	37-67-331
	16	Repealer
	17	Codification instruction
	18	Effective date
5	1	77-1-405
6	1	17-5-205
	2	Effective date
7	1	17-8-107
	2	Effective date
8	1	20-9-306
	2	20-9-366
	3	20-9-368
	4	20-10-107
	5	20-10-147
	6	Effective date
9	1	15-7-202
	2	Effective date
10	1	10-1-104
	2	Saving clause
	3	Applicability
11	1	2-7-503
	2	Effective date
12	1	32-1-231
	2	32-1-232
	3	32-1-233
	4	32-1-234
	5	32-1-1005
	6	Repealer
13	1	2-15-2033
	2	Codification instruction
14	1	37-68-103
	2	37-68-311
	3	37-69-102
	4	Repealer
	5	Effective date
15	1	2-15-1747
	2	37-31-101
	3	37-31-103
	4	37-31-203
	5	37-31-301
	6	37-31-302
	7	37-31-303
	8	37-31-304
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	10	37-31-308
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	13	37-31-323
	14	37-31-331
	15	37-33-404
	16	49-2-101
16	1	47-1-111
17	1	46-8-113
	2	46-8-114
18	1	10-3-103
	2	10-3-310
	3	10-3-1204
	4	Effective date
19	1	69-3-1408
	2	Saving clause
	3	Effective date
	4	Retroactive applicability
20	1	69-8-402 (void and replaced by sec. 3, Ch. 252)
	2	Saving clause
	3	Effective date
	4	Retroactive applicability
21	1	19-5-103
	2	Effective date
22	1	46-5-221
	2	Effective date
23	1	31-1-712
	2	31-1-713
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	12	32-9-135
	13	32-9-130
	14	32-9-166
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	17	Codification instruction
	18	Effective date
25	1	45-7-601
	2	Codification instruction
26	1	15-2-301
	2	15-2-302
	3	15-15-103
27	1	15-1-208
	2	Repealer
	3	Effective date
28	1	30-10-103
	2	30-10-305
	3	30-10-306
	4	30-10-1003
	5	30-10-1006
	6	Saving clause
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	8	Effective date
29	1	15-36-303
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	3	20-9-518
30	1	80-2-202
	2	80-8-108
	3	80-11-203
	4	80-11-305
	5	80-11-404
	6	90-9-201
	7	Effective date
31	1	80-1-104
	2	Codification instruction
	3	Effective date
32	1	80-7-814
	2	Effective date
33	1	80-2-301
	2	Codification instruction
34	1	37-19-302
35	1	10-4-313
	2	Effective date
36	1	15-30-2501
	2	Effective date
	3	Retroactive applicability
37	1	46-24-213
	2	Effective date
38	1	37-60-105
39	1	39-71-2901
40	1	81-6-104
	2	81-6-204
	3	81-6-209
	4	Effective date
41	1	5-5-227
	2	5-5-228
	3	Effective date
42	1	35-1-217
	2	35-1-311 (void and replaced by sec. 27, Ch. 280)
	3	35-1-1028
	4	35-2-119
	5	35-2-307
	6	35-2-822
	7	35-8-108
	8	35-8-1003
	9	35-12-1302
	10	Effective date
43	1	35-12-1314
	2	Codification instruction

	3	Effective date
44	1	87-2-107
	2	Effective date
45	1	50-76-110
	2	Effective date
46	1	50-74-219
	2	Effective date
47	1	Repealer
	2	Effective date
48	1	40-4-130
49	1	13-1-501
	2	13-1-502
	3	13-1-503
	4	13-1-504
	5	13-1-505
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	14	3-10-101
	15	3-11-101
	16	7-1-201
	17	7-1-2121
	18	7-1-4130
	19	7-2-2215
	20	7-2-2604
	21	7-2-2705
	22	7-2-2709
	23	7-2-2804
	24	7-2-4104
	25	7-2-4106
	26	7-2-4314
	27	7-2-4601
	28	7-2-4602
	29	7-2-4606
	30	7-2-4733
	31	7-2-4902
	32	7-2-4904
	33	7-3-103
	34	7-3-121
	35	7-3-122
	36	7-3-125
	37	7-3-149
	38	7-3-154
	39	7-3-155
	40	7-3-160
	41	7-3-173
	42	7-3-174
	43	7-3-175
	44	7-3-176
	45	7-3-178
	46	7-3-186
	47	7-3-187
	48	7-3-192
	49	7-3-1204
	50	7-3-1205
	51	7-3-1206
	52	7-3-1208
	53	7-3-1209
	54	7-3-1216
	55	7-3-1218
	56	7-3-1219
	57	7-3-1229
	58	7-3-1231
	59	7-3-1254
	60	7-3-1271
	61	7-3-4208
	62	7-3-4210
	63	7-3-4212
	64	7-3-4214
	65	7-3-4222
	66	7-3-4223
	67	7-3-4305
	68	7-3-4307
	69	7-3-4309
	70	7-3-4310
	71	7-3-4311
	72	7-3-4316
	73	7-3-4319
	74	7-3-4322
	75	7-3-4462
	76	7-5-131
	77	7-5-132
	78	7-5-4321
	79	7-5-4322
	80	7-6-1501
	81	7-6-1502
	82	7-6-1504
	83	7-6-1505
	84	7-6-1506
	85	7-6-1508
	86	7-6-1509
	87	7-6-1532
	88	7-6-1533
	89	7-6-1535
	90	7-6-1536
	91	7-6-1541
	92	7-6-1542
	93	7-6-1543
	94	7-6-1544
	95	7-6-1546
	96	7-6-1547
	97	7-6-1548
	98	7-6-1551
	99	7-7-2223
	100	7-7-2227
	101	7-7-2229
	102	7-7-2237
	103	7-7-2404
	104	7-7-2405
	105	7-7-2406
	106	7-7-4226
	107	7-7-4227
	108	7-7-4235
	109	7-7-4426
	110	7-8-4201
	111	7-10-101
	112	7-10-102
	113	7-10-104
	114	7-10-110
	115	7-11-1011
	116	7-11-1012
	117	7-12-4243
	118	7-13-2201
	119	7-13-2204
	120	7-13-2208
	121	7-13-2210
	122	7-13-2211
	123	7-13-2214
	124	7-13-2217
	125	7-13-2222
	126	7-13-2225
	127	7-13-2231
	128	7-13-2234
	129	7-13-2241
	130	7-13-2258
	131	7-13-2261
	132	7-13-2262
	133	7-13-2271
	134	7-13-2272
	135	7-13-2273
	136	7-13-2276
	137	7-13-2321
	138	7-13-2323
	139	7-13-2324
	140	7-13-2328
	141	7-13-2333
	142	7-13-2341
	143	7-13-2342
	144	7-13-2352
	145	7-13-4204
	146	7-13-4511
	147	7-13-4512
	148	7-13-4535
	149	7-14-210
	150	7-14-211
	151	7-14-212
	152	7-14-214
	153	7-14-1106
	154	7-14-1134
	155	7-14-1633
	156	7-14-2507
		(renumbered
		7-14-110)
	157	7-14-4512
	158	7-14-4642
	159	7-16-2102
	160	7-16-2109
	161	7-33-2106
	162	7-34-2110
	163	7-34-2112
	164	7-34-2117
	165	13-1-101
	166	13-1-104
	167	13-1-106
	168	13-1-107
	169	13-1-108
	170	13-1-301
	171	13-1-401
		(renumbered
		13-1-305)
	172	13-2-301
	173	13-2-304
	174	13-3-202
	175	13-10-201
	176	13-10-208
	177	13-10-209
	178	13-10-211
	179	13-10-325
	180	13-10-326
	181	13-10-327
	182	13-10-405
	183	13-12-201
	184	13-13-205
	185	13-14-112
	186	13-14-113
	187	13-14-115
	188	13-15-206
	189	13-19-205
	190	13-19-207
	191	13-35-107
	192	13-37-126
	193	13-37-206
	194	15-10-425
	195	15-65-101
	196	16-1-205

197	16-4-420
198	20-1-101
199	20-3-202
200	20-3-301
201	20-3-305
202	20-3-306
203	20-3-307
204	20-3-313
205	20-3-321
206	20-3-337
207	20-3-338
208	20-3-341
209	20-9-426
210	20-9-428
211	20-9-471
212	20-15-203
213	20-15-204
214	20-15-207
215	20-15-208
216	20-15-209
217	20-15-219
218	20-15-221
219	20-15-222
220	20-15-224
221	20-15-225
222	20-15-231
223	20-15-241
224	20-20-105
225	20-20-106
226	20-20-201
227	20-20-204
228	20-20-311
229	20-20-312
230	20-20-401
231	20-20-417
232	22-1-304
233	22-1-703
234	22-1-706
235	22-1-708
236	22-1-709
237	22-1-710
238	76-5-1106
239	76-15-303
240	76-15-304
241	76-15-305
242	76-15-311
243	76-15-312
244	76-15-506
245	76-15-605
246	85-7-1702
247	85-7-1712
248	85-7-1837
249	85-7-1974
250	85-7-2013
251	85-8-302
252	85-8-306
253	85-8-624
254	85-9-103
255	85-9-203
256	85-9-206
257	85-9-302
258	85-9-408
259	85-9-501
260	85-9-602
261	85-9-623
262	Repealer
263	Codification instruction — instructions to code commissioner
264	Effective date
51 1	41-5-208
2	Effective date
52 1	85-2-307
2	85-2-804
3	Effective date
53 1	47-1-111
54 1	15-24-903
2	15-24-905
3	15-24-906
4	15-24-921
5	81-7-603
6	Effective date
7	Applicability
55 1	2-15-3110
2	2-17-546
3	7-31-202
4	7-32-303
5	7-33-4107
6	10-1-1402
7	13-13-212
8	13-21-212
9	13-35-502
10	15-30-2604 (void - sec. 15, Ch. 308)
11	15-31-150
12	19-20-408
13	19-20-410
14	20-1-213
15	33-22-703
16	37-47-101
17	39-71-703
18	39-71-1101
19	41-2-103
20	45-7-309
21	45-9-203
22	46-18-201
23	46-18-245
24	46-18-256
25	46-23-1027
26	50-2-109
27	53-4-209
28	61-10-121
29	69-13-302
30	72-5-446
31	72-38-111
32	72-38-132
33	72-38-301
34	72-38-802
35	75-1-102
36	77-1-103
37	77-1-218
38	82-2-203
39	87-2-525
40	Directions to code commissioner
56 1	2-15-1734
2	2-15-1737
3	2-15-1740
4	2-15-1757
5	2-15-1773
6	Effective dates
57 1	37-33-501
2	Repealer
58 1	2-15-2511
2	Effective date
3	Applicability
59 1	23-2-702
60 1	20-9-306
2	20-9-325
3	Notification to tribal governments
4	Effective date
5	Applicability
61 1	23-5-112
2	23-5-113
3	23-5-115
4	23-5-222
5	23-5-306
6	23-5-501
7	Effective dates
62 1	2-6-501
2	2-6-504
3	30-14-1704
4	33-19-321
63 1	15-30-2110
2	17-6-606
3	27-1-732
4	30-10-205
5	33-1-409
6	33-1-701
7	33-2-117
8	33-2-708
9	33-2-1902
10	33-2-1904
11	33-4-101
12	33-7-117
13	33-10-105
14	33-17-1502
15	33-20-114
16	33-20-1603
17	33-22-132
18	33-22-138
19	33-22-140
20	33-22-142
21	33-22-143
22	33-22-706
23	33-22-1501
24	33-22-1502
25	33-22-1504
26	33-22-1513
27	33-22-1804
28	33-30-107
29	33-30-108
30	33-30-201
31	33-30-204
32	33-35-301
33	53-2-215
34	53-4-1007
35	Repealer
36	Severability
37	Effective dates
64 1	2-4-102
65 1	37-8-451
2	37-8-452
3	Codification instruction
66 1	20-6-609
2	20-6-625
3	Effective date
67 1	46-16-130
2	Effective date
68 1	20-15-104
2	Effective date
69 1	20-7-604
2	82-1-104
3	Effective date
70 1	15-1-211
2	Effective date

71	1	13-37-102
	2	13-37-104
	3	13-37-107
72	1	75-5-1113
	2	75-6-224
	3	Effective date
73	1	20-25-421
	2	Effective date
74	1	17-5-710
	2	17-5-803
	3	75-5-1121
	4	75-6-225
	5	Saving clause
	6	Severability
	7	Effective date
75	1	45-5-223
	2	Effective date
76	1	15-30-2618
	2	15-31-511
	3	90-1-113
	4	Effective date
77	1	2-8-304
	2	Effective date
78	1	22-3-1001
	2	22-3-1002
	3	22-3-1003
	4	22-3-1004
79	1	44-2-502
	2	44-2-505
80	1	37-1-321
	2	37-1-131
	3	37-1-141
	4	37-1-306
	5	37-1-420
	6	37-1-309
	7	37-1-313
	8	37-1-403
	9	37-1-407
	10	37-51-204
	11	Codification instruction
	12	Saving clause
	13	Severability
	14	Effective date
81	1	39-51-1307
	2	39-51-3206
	3	Effective date
	4	Retroactive applicability
82	1	2-15-1311
83	1	15-24-922
	2	Effective date
84	1	17-6-205
	2	17-6-204
	3	20-15-403
	4	Codification instruction
	5	Effective date
85	1	39-11-205
	2	39-11-103
	3	39-11-202
	4	Codification instruction
	5	Effective date
	6	Retroactive applicability
86	1	39-3-406
	2	Effective date
87	1	3-10-201
	2	13-35-231
88	1	3-15-402
	2	Effective date
89	1	2-15-2302
90	1	37-68-103
	2	37-68-316
	3	37-69-304
	4	37-69-310
	5	Effective date
91	1	Repealer
	2	Effective date
92	1	87-6-415
93	1	61-9-406
	2	61-9-520
	3	Effective date
94	1	50-63-201
95	1	85-7-1805
	2	Effective date
96	1	46-23-103
	2	46-23-104
	3	46-23-301
	4	46-23-302
	5	46-23-307
	6	Applicability
97	1	16-4-406
	2	Effective date
98	1	33-18-217
	2	33-18-210
	3	Codification instruction
	4	Effective date
99	1	22-3-804
	2	22-3-811
	3	Effective date
100	1	47-1-216
101	1	7-14-2101
	2	Notification to tribal governments
	3	Effective date
102	1	80-6-1109
	2	80-6-1112
	3	80-11-304
	4	80-11-310
	5	Effective date
103	1	46-18-243
	2	Effective date
104	1	69-14-104
	2	10-3-1309
	3	15-6-227
	4	25-2-122
	5	69-12-209
	6	69-14-102
	7	69-14-111
	8	69-14-252
	9	69-14-1102
	10	Repealer
	11	Codification instruction
	12	Saving clause
	13	Severability
105	1	87-1-107
	2	87-2-101
	3	87-6-101
	4	Codification instruction
106	1	2-17-544
	2	2-17-545
	3	2-17-506
	4	2-17-512
	5	2-17-543
	6	Repealer
	7	Codification instruction
107	1	75-11-307
	2	75-11-508
	3	Effective date
108	1	77-1-1112
	2	77-1-1114
	3	Effective date
109	1	15-24-3004
	2	Effective date
110	1	46-18-111
	2	46-18-222
	3	46-23-502
	4	46-23-504
	5	46-23-509
111	1	40-4-217
112	1	40-9-102
113	1	46-18-255
	2	46-23-215
	3	46-23-1011
	4	46-24-203
	5	46-24-212
114	1	76-16-112
	2	Effective date
115	1	87-2-818
	2	Codification instruction
	3	Effective date
116	1	87-6-302
	2	87-6-304
	3	Saving clause
	4	Severability
117	1	32-3-422
	2	Repealer
	3	Codification instruction
118	1	17-7-160
	2	17-7-161
	3	17-7-162
	4	Effective date
119	1	75-10-711
	2	75-10-743
	3	Effective date
120	1	61-1-101
	2	61-3-224
	3	Effective date
121	1	7-1-4134
	2	13-1-506
	3	Repealer
	4	Codification instruction
122	1	5-5-202
	2	5-5-231
	3	75-1-208
	4	75-1-324
	5	75-5-313
	6	75-5-703
	7	85-1-203
	8	85-1-621
	9	85-2-105
	10	85-2-281
	11	85-2-350
	12	85-2-436
	13	Effective date
123	1	39-71-107
	2	39-71-704
	3	39-71-736
	4	39-71-915
	5	Effective date

124	1	20-5-403
	2	20-5-404
125	1	37-19-828
126	1	61-10-126
	2	Effective date
127	1	2-9-220
	2	Codification instruction
	3	Effective date
128	1	20-10-132
	2	Effective date
129	1	82-11-188
	2	Codification instruction
130	1	2-15-1744
	2	37-17-104
	3	37-22-102
	4	37-22-305
	5	37-22-313
	6	37-23-102
	7	37-23-201
	8	37-23-213
	9	37-37-102
	10	37-37-201
	11	37-37-205
	12	Name change — directions to code commissioner
	13	Codification instruction
131	1	75-5-302
132	1	2-15-1704
	2	15-31-150
	3	39-51-201
	4	39-51-204
	5	39-51-1110
	6	39-51-1206
	7	39-51-1212
	8	39-51-1219
	9	39-51-2402
	10	39-51-2403
	11	39-51-2404
	12	39-51-2410
	13	Effective date
133	1	2-3-214
	2	Codification instruction
	3	Effective date
134	1	45-8-322
	2	45-8-323
135	1	50-12-101
	2	50-12-102
	3	50-12-103
	4	50-12-104
	5	50-12-105
	6	50-12-106
	7	50-12-107
	8	50-12-108
	9	50-12-109
	10	50-12-110
	11	Codification instruction
	12	Severability
	13	Two-thirds vote required
	14	Effective date
136	1	Sec. 11, Ch. 241, L. 2013
	2	Effective date
137	1	40-4-108
	2	Applicability
138	1	19-1-102
	2	19-1-304
	3	19-1-401
	4	19-1-402
	5	19-1-823
139	1	33-1-402
	2	33-2-708
	3	33-17-102
	4	33-17-301
	5	33-17-302
	6	33-17-303
	7	33-17-1001
	8	33-17-1002
	9	33-17-1004
	10	33-17-1202
	11	33-17-1203
	12	33-17-1205
	13	Codification instruction
	14	Saving clause
	15	Severability
	16	Effective date
140	1	19-2-504
	2	19-2-1001
	3	19-2-1014
	4	19-3-2102
	5	19-50-101
	6	19-50-104
	7	Effective date
	8	Retroactive applicability
141	1	61-2-108
	2	Effective date
142	1	20-7-1201
	2	20-7-1202
	3	Codification instruction
	4	Effective date
143	1	41-5-103
	2	41-5-112
	3	41-5-121
	4	41-5-130
	5	41-5-131
	6	41-5-132
	7	41-5-1504
	8	41-5-1512
	9	41-5-1513
	10	41-5-2003
	11	41-5-2004
	12	41-5-2005
	13	41-5-2006
	14	41-5-2011
	15	41-5-2012
	16	53-1-203
	17	Effective date
144	1	45-5-504
	2	46-23-502
145	1	18-4-301
	2	18-4-302
	3	Effective date
146	1	61-6-302
	2	61-6-309
147	1	39-29-201
	2	39-29-202
	3	39-29-203
	4	Codification instruction
148	1	60-1-222
	2	Codification instruction
	3	Effective date
149	1	87-6-101
	2	87-6-404
	3	87-6-411
	4	87-6-412
	5	Effective date
150	1	81-10-102
151	1	80-11-510
	2	80-11-512
	3	Repealer
	4	Effective date
152	1	45-5-624
153	1	61-3-701
	2	Effective date
154	1	27-6-103
	2	37-3-102
	3	37-3-103
	4	37-3-201
	5	37-3-203
	6	37-3-204
	7	37-3-211
	8	37-3-301
	9	37-3-303
	10	37-3-305
	11	37-3-307
	12	37-3-308
	13	37-3-312
	14	37-3-321
	15	37-3-323
	16	37-3-403
	17	37-20-402
	18	Repealer
	19	Effective date
155	1	76-15-1001
	2	76-15-1004
	3	76-15-1005
	4	76-15-1006
	5	76-15-1011
	6	76-15-1012
	7	76-15-1013
	8	76-15-1014
	9	Severability
	10	Codification instruction
	11	Effective date
156	1	2-2-106
157	1	20-9-311
	2	Effective date
	3	Applicability
158	1	7-2-4211
159	1	46-18-226
	2	Codification instruction
160	1	7-15-4279
161	1	37-3-103
	2	37-60-303
	3	39-3-406
	4	39-30-103
	5	44-5-103
	6	45-2-101
	7	45-2-211
	8	45-5-501
	9	45-8-321
	10	46-14-101
	11	46-14-102
	12	46-14-103
	13	46-14-202
	14	46-14-204

	15	46-14-206
	16	46-14-214
	17	46-14-217
	18	46-14-301
	19	46-14-302
	20	46-14-304
	21	46-14-311
	22	46-14-312
	23	46-15-323
	24	53-1-104
	25	80-20-102
	26	81-30-102
	27	Effective date
	28	Name change — directions to code commissioner
162	1	42-2-409
	2	42-6-102
	3	42-6-109
	4	50-15-223
163	1	30-10-105
	2	Effective date
164	1	46-11-701
	2	Effective date
165	1	17-7-140
	2	Effective date
166	1	30-13-202(4)
	2	30-13-203
	3	35-1-310
	4	35-4-206
	5	35-8-1003
	6	35-10-701
	7	35-10-703
	8	Codification instruction
	9	Effective date
167	1	13-37-201
	2	13-37-225
168	1	35-20-316
	2	35-20-313
	3	Codification instruction
	4	Effective date
	5	Applicability
169	1	2-7-501
	2	2-15-1756
	3	15-61-102
	4	15-63-102
	5	37-50-101
	6	37-50-102
	7	37-50-203
	8	37-50-301
	9	37-50-302
	10	37-50-305
	11	37-50-309
	12	37-50-314
	13	37-50-316
	14	37-50-325
	15	37-50-330
	16	37-50-335
	17	37-50-341
	18	37-50-401
	19	37-50-402
	20	37-50-403
	21	37-50-318
	22	80-4-502
	23	80-4-601
	24	Repealer
	25	Codification instruction
	26	Effective date
170	1	19-2-303
	2	19-2-407
	3	19-3-2117
	4	19-21-214
	5	Repealer
	6	Effective date
	7	Retroactive applicability
171	1	76-2-226
	2	76-2-227
	3	76-2-228
172	1	87-1-216
	2	Effective date
173	1	7-1-111
	2	7-14-4116
	3	7-14-4102
	4	7-14-4103
	5	7-14-4104
	6	61-10-121
	7	61-12-101
	8	Codification instruction
174	1	40-5-1005
	2	40-5-1009
	3	40-5-1018
	4	40-5-1069
	5	40-5-1070
	6	40-5-1073
	7	40-5-1074
	8	40-5-1075
	9	40-5-1076
	10	40-5-1077
	11	40-5-1078
	12	40-5-1079
	13	40-5-1080
	14	40-5-1081
	15	40-5-1082
	16	40-5-1083
	17	40-5-1084
	18	40-5-1085
	19	40-5-103 (renumbered 40-5-1002)
	20	40-5-143 (renumbered 40-5-1003)
	21	40-5-144 (renumbered 40-5-1004)
	22	40-5-145 (renumbered 40-5-1008)
	23	40-5-146 (renumbered 40-5-1017)
	24	40-5-147 (renumbered 40-5-1010)
	25	40-5-148 (renumbered 40-5-1011)
	26	40-5-149 (renumbered 40-5-1012)
	27	40-5-150 (renumbered 40-5-1013)
	28	40-5-151 (renumbered 40-5-1014)
	29	40-5-152 (renumbered 40-5-1015)
	30	40-5-153 (renumbered 40-5-1088)
	31	40-5-154 (renumbered 40-5-1089)
	32	40-5-157(1) (renumbered 40-5-1046 40-5-157(2)-(4) (renumbered 40-5-1047) 40-5-157(5) (renumbered 40-5-1048) 40-5-157(6) (renumbered 40-5-1049) 40-5-157(7) (renumbered 40-5-1050) 40-5-157(8) (renumbered 40-5-1051)
	33	40-5-158 (renumbered 40-5-1021)
	34	40-5-159 (renumbered 40-5-1022)
	35	40-5-160 (renumbered 40-5-1023)
	36	40-5-161 (renumbered 40-5-1024)
	37	40-5-162 (renumbered 40-5-1025)
	38	40-5-163 (renumbered 40-5-1026)
	39	40-5-164 (renumbered 40-5-1027)
	40	40-5-165 (renumbered 40-5-1030)
	41	40-5-166 (renumbered 40-5-1028)
	42	40-5-171 (renumbered 40-5-1031)
	43	40-5-172 (renumbered 40-5-1032)
	44	40-5-173 (renumbered 40-5-1033)
	45	40-5-174 (renumbered 40-5-1035)

46 40-5-175 (renumbered 40-5-1036)
47 40-5-176 (renumbered 40-5-1037)
48 40-5-177 (renumbered 40-5-1038)
49 40-5-178 (renumbered 40-5-1039)
50 40-5-179 (renumbered 40-5-1042)
51 40-5-180 (renumbered 40-5-1052)
52 40-5-181 (renumbered 40-5-1016)
53 40-5-183 (renumbered 40-5-1034)
54 40-5-184 (renumbered 40-5-1055)
55 40-5-185 (renumbered 40-5-1056)
56 40-5-186 (renumbered 40-5-1057)
57 40-5-187 (renumbered 40-5-1058)
58 40-5-188 (renumbered 40-5-1059)
59 40-5-189 (renumbered 40-5-1060)
60 40-5-190 (renumbered 40-5-1061)
61 40-5-191 (renumbered 40-5-1062)
62 40-5-192 (renumbered 40-5-1063)
63 40-5-193 (renumbered 40-5-1064)
64 40-5-194(1)-(6) (renumbered 40-5-1065)
40-5-194(7) (renumbered 40-5-1067)
40-5-194(8)-(9) (renumbered 40-5-1068)
65 40-5-195 (renumbered 40-5-1066)
66 40-5-196 (renumbered 40-5-1043)
67 40-5-197 (renumbered 40-5-1092)
68 40-5-272
69 40-5-923
70 Transition
71 Codification instruction — directions to code commissioner
72 Severability
73 Effective date

175 1 45-6-332
2 Applicability

176 1 90-3-1002
2 90-3-1003
3 Effective date

177 1 50-51-102
2 Effective date

178 1 7-4-2503
2 Effective date

179 1 Repealer

180 1 46-16-222
2 45-6-333
3 52-3-825
4 Codification instruction

181 1 72-38-132
2 72-38-301
3 72-38-802
4 72-38-1008
5 72-38-1013

182 1 46-23-502
2 Effective date
3 Applicability

183 1 26-1-807
2 Effective date

184 1 33-4-521
2 33-4-522
3 Codification instruction

185 1 50-50-102 (void Oct. 1, 2015 - sec. 3, Ch. 185)
2 50-50-202 (void Oct. 1, 2015 - sec. 3, Ch. 185)
3 Coordination instruction
4 Effective date

186 1 30-13-151
2 30-13-152
3 30-13-153
4 30-13-154
5 Codification instruction
6 Effective date

187 1 37-1-134
2 81-1-102
3 Effective date

188 1 Property owner entitled to costs and attorney fees (void - sec. 3, Ch. 188)
2 Codification instruction
3 Coordination instruction
4 Applicability

189 1 Repealer
2 Effective date

190 1 19-2-303 (void - sec. 6, Ch. 190)
2 19-2-407 (void - sec. 6, Ch. 190)
3 19-3-2117 (void - sec. 6, Ch. 190)
4 19-21-214 (void - sec. 6, Ch. 190)
5 Repealer (void - sec. 6, Ch. 190)
6 Coordination instruction
7 Effective date
8 Retroactive applicability

191 1 19-21-214 (void - sec. 2, Ch. 191)
2 Coordination instruction
3 Effective date
4 Retroactive applicability

192 1 85-2-312
2 85-2-402
3 Effective date

193 1 77-1-905
2 77-2-363

194 1 76-15-706
2 76-15-721
3 76-15-722
4 Effective date

195 1 77-1-223
2 Repealer

196 1 7-32-303
2 44-4-403
3 Effective date

197 1 61-8-731
2 Applicability

198 1 46-23-208
2 46-23-201
3 46-23-202
4 Codification instruction

199 1 61-1-101

200 1 25-40-101
2 25-40-102
3 25-40-103
4 25-40-104
5 25-40-105
6 25-40-106
7 25-40-107
8 25-40-108
9 25-40-109
10 25-40-110
11 25-40-111
12 25-40-112
13 25-40-113
14 25-40-114
15 25-40-115
16 25-40-116
17 25-40-117
18 25-40-118
19 25-40-119
20 25-40-120
21 25-40-121
22 Codification instruction
23 Severability

201	1	7-4-2631
202	1	Repealer
	2	Effective date
203	1	37-3-356
	2	37-3-357
	3	Codification instruction
204	1	53-20-163
	2	Effective date
205	1	35-8-106
	2	Effective date
206	1	50-31-307
	2	50-31-308
	3	50-32-208
	4	Effective date
207	1	53-21-1202
	2	53-21-1203
	3	53-21-1204
	4	Appropriation (void - sec. 5, Ch. 207)
	5	Coordination instruction
	6	Effective date
208	1	Appropriation for youth mental health crisis diversion pilot projects — reporting requirement
	2	Effective date
209	1	13-1-203
	2	13-4-203
	3	Effective date
210	1	19-20-1201
	2	19-20-1202
	3	19-20-1203
	4	19-20-1204
	5	19-20-1205
	6	19-20-1206
	7	19-20-1211
	8	19-20-1215
	9	19-20-1212
	10	19-20-1213
	11	19-20-1214
	12	19-20-401
	13	19-20-402
	14	19-20-403
	15	19-20-404
	16	19-20-405
	17	19-20-408
	18	19-20-409
	19	19-20-410
	20	19-20-426
	21	19-20-427
	22	19-20-702
	23	19-20-715
	24	19-20-716
	25	19-20-718
	26	19-20-802
	27	19-20-904
	28	19-20-1001
	29	19-20-1101
	30	Repealer
	31	Codification instruction
	32	Effective date
	33	Retroactive applicability
211	1	37-51-102
	2	37-51-103
	3	37-51-301
	4	37-51-306
	5	37-51-313
	6	37-51-602
	7	Severability
	8	Effective date
212	1	37-1-332
	2	Codification instruction
	3	Effective date
	4	Applicability
213	1	71-1-316
214	1	13-12-203
	2	20-20-401
215	1	26-1-902
216	1	61-6-103
	2	Applicability
217	1	19-9-1301
	2	Codification instruction
	3	Effective date
	4	Retroactive applicability
218	1	7-4-2503
	2	Effective date
219	1	61-10-107
220	1	7-14-301
	2	7-14-304
	3	15-30-2618
	4	15-70-104
	5	15-70-113
	6	15-70-121
	7	15-70-231 (renumbered 15-70-440)
	8	15-70-235 (renumbered 15-70-451)
	9	15-70-236 (renumbered 15-70-452)
	10	15-70-301 (renumbered 15-70-401)
	11	15-70-320 (renumbered 15-70-405)
	12	15-70-326 (renumbered 15-70-404)
	13	15-70-330 (renumbered 15-70-441)
	14	15-70-341 (renumbered 15-70-402)
	15	15-70-343 (renumbered 15-70-403)
	16	15-70-344 (renumbered 15-70-410)
	17	15-70-345 (renumbered 15-70-411)
	18	15-70-348 (renumbered 15-70-412)
	19	15-70-349 (renumbered 15-70-415)
	20	15-70-351 (renumbered 15-70-416)
	21	15-70-352 (renumbered 15-70-417)
	22	15-70-353 (renumbered 15-70-418)
	23	15-70-354 (renumbered 15-70-420)
	24	15-70-356 (renumbered 15-70-425)
	25	15-70-357 (renumbered 15-70-419)
	26	15-70-361 (renumbered 15-70-426)
	27	15-70-362 (renumbered 15-70-430)
	28	15-70-364 (renumbered 15-70-432)
	29	15-70-366 (renumbered 15-70-443)
	30	15-70-503
	31	15-70-521
	32	15-70-522
	33	15-70-719
	34	60-3-201
	35	60-3-202
	36	61-12-206
	37	67-1-301
	38	75-11-302
	39	75-11-314
	40	Repealer
	41	Directions to code commissioner
221	1	Wells exempt from permitting — definition of combined appropriation — retroactive applicability
	2	Effective date
222	1	31-1-402
223	1	33-2-320
	2	33-2-311
	3	33-18-212
	4	Codification instruction
	5	Effective date
	6	Applicability
224	1	71-3-1111
	2	71-3-1112
	3	71-3-1114
	4	71-3-1115
	5	71-3-1117
	6	71-3-1118
225	1	33-22-142
	2	Effective date

226	1	69-1-106
	2	Effective date
227	1	20-26-1101
	2	Repealer
	3	Effective date
228	1	Commemoration of Sidney Edgerton — special revenue account
	2	2-17-808
	3	Contingent voidness
	4	Effective date
229	1	33-1-102
	2	33-28-101
	3	Effective date
230	1	19-17-110
231	1	61-3-206
	2	61-3-216
	3	61-3-509
	4	61-4-104
232	1	17-7-152
	2	17-7-153
	3	17-7-154
	4	17-7-150
	5	17-7-151
	6	Codification instruction
	7	Termination
233	1	18-4-227
	2	Effective date
234	1	69-3-603
	2	Effective date
	3	Retroactive applicability
235	1	10-1-902
	2	10-1-1002
	3	10-1-1003 (void and replaced by sec. 6, Ch. 363)
	4	10-1-1006
	5	10-1-1007
	6	10-1-1201
	7	19-2-707
	8	20-25-421
	9	72-5-103
	10	Effective date
236	1	13-1-116
237	1	2-17-513
	2	2-17-516
	3	Repealer
	4	Effective date
238	1	2-15-149
	2	Notification to tribal governments
	3	Effective date
239	1	50-50-116
	2	50-50-117
	3	50-50-120
	4	50-50-121
	5	30-12-301
	6	50-31-103
	7	50-46-309
	8	50-50-101
	9	50-50-102
	10	50-50-103
	11	50-50-105
	12	50-50-109
	13	50-50-110
	14	50-50-201
	15	50-50-202
	16	50-50-203
	17	50-50-205
	18	50-50-208
	19	50-50-209
	20	50-50-211
	21	50-50-212
	22	50-50-213
	23	50-50-214
	24	50-50-215
	25	50-50-301
	26	50-50-302
	27	50-50-303
	28	50-50-305
	29	50-57-102
	30	81-22-208
	31	Codification instruction
240	1	13-13-120
241	1	13-35-211
242	1	81-1-106
	2	Codification instruction
	3	Effective date
243	1	1-1-524
	2	Codification instruction
244	1	53-1-107
245	1	20-7-334
	2	Effective date
246	1	13-13-212
247	1	13-13-246
	2	13-19-301
	3	Codification instruction
248	1	5-2-304
	2	19-2-405
	3	19-2-801
	4	19-2-903
	5	19-2-904
	6	19-2-908
	7	19-3-411
	8	19-3-412
	9	19-3-413
	10	19-3-904
	11	19-3-1105
	12	19-3-1106
	13	19-3-1210
	14	19-3-1501
	15	19-3-2141
	16	19-5-701
	17	19-5-802
	18	19-7-301
	19	19-7-410
	20	19-7-503
	21	19-7-1001
	22	19-8-302
	23	19-8-801
	24	19-8-1001
	25	19-8-1002
	26	19-9-301
	27	19-9-1206
	28	19-17-112
	29	19-20-302
	30	Repealer
	31	Codification instruction
	32	Effective date
249	1	76-16-322
	2	81-4-101
	3	Effective date
250	1	19-1-102
	2	19-1-103
	3	19-1-104
	4	19-1-201
	5	19-1-202
	6	19-1-302
	7	19-1-303
	8	19-1-304
	9	19-1-401
	10	19-1-402
	11	19-1-501
	12	19-1-502
	13	19-1-503
	14	19-1-702
	15	19-1-704
	16	19-1-811
	17	19-1-815
	18	19-1-822
	19	19-1-823
	20	19-1-824
	21	19-1-826
251	1	50-32-501
	2	50-32-502
	3	50-32-503
	4	Codification instruction
	5	Effective date
252	1	69-8-402 (void and replaced by sec. 3, Ch. 252)
	2	69-8-412
	3	Coordination instruction
	4	Effective date
	5	Retroactive applicability
253	1	20-5-207
	2	20-5-208
	3	20-5-209
	4	20-5-210
	5	Codification instruction
254	1	61-4-104
255	1	61-8-102
	2	61-8-324
	3	61-8-326
	4	61-8-604
	5	61-8-605
	6	61-8-606
	7	61-8-607
256	1	33-22-139
	2	2-18-704
	3	33-31-111
	4	33-35-306
	5	Codification instruction
	6	Effective date
	7	Applicability
257	1	1-1-523
	2	Codification instruction
258	1	19-6-1001
	2	19-6-1002
	3	19-6-1003
	4	19-6-1004
	5	19-6-1005
	6	19-6-1006

	7	19-6-1007
	8	19-6-1008
	9	19-6-710
	10	Board to seek commissioner's ruling or determination — contingent voidness
	11	Codification instruction
259	1	2-2-121
	2	13-1-101
	3	13-35-225
	4	13-35-227
	5	13-35-402
	6	13-37-114
	7	13-37-201
	8	13-37-216
	9	13-37-219
	10	13-37-225
	11	13-37-226
	12	13-37-228
	13	13-37-229
	14	13-37-232
	15	13-37-231
	16	13-37-233
	17	13-37-402
	18	Repealer
	19	Codification instruction
	20	Saving clause
	21	Severability
260	1	87-6-401
	2	Effective date
261	1	7-32-401
	2	7-32-402
	3	Codification instruction
262	1	2-7-503
	2	2-9-101
	3	7-1-204
	4	7-1-2123
	5	7-4-2104
	6	7-4-2106
	7	7-4-2312
	8	7-4-2631
	9	7-4-2801
	10	7-6-616
	11	7-6-2801
	12	7-7-2101
	13	7-11-1030
	14	7-11-1024
	15	7-12-2202
	16	7-14-2606
	17	7-22-2101
	18	7-32-2107
	19	7-32-2108
	20	7-13-2350 7-22-2113 7-33-2112
	21	20-9-212
	22	76-15-324
	23	Repealer
	24	Codification instruction
	25	Effective date
263	1	39-2-307
	2	Codification instruction
	3	Effective date
264	1	16-3-107
	2	Effective date
265	1	53-6-2101
	2	53-6-2102
	3	53-6-2103
	4	Codification instruction
	5	Appropriation (line-item vetoed)
	6	Effective date
	7	Termination
266	1	2-3-114
	2	Effective date
	3	Applicability
267	1	33-15-1126
	2	39-71-606
	3	Codification instruction
	4	Effective date
268	1	77-2-318
	2	77-2-325
	3	77-2-363
	4	Effective date
269	1	17-7-102
	2	85-2-231
	3	85-2-237
	4	85-2-270
	5	85-2-271
	6	85-2-280
	7	85-2-281
	8	85-2-282
	9	Coordination instruction
	10	Sec. 18, Ch. 288, L. 2005
	11	Sec. 11, Ch. 319, L. 2007
	12	Effective date
270	1	20-1-601
	2	20-1-602
	3	20-1-603
	4	20-1-604
	5	20-1-605
	6	20-1-606
	7	Codification instruction
	8	Effective date
271	1	81-23-202
	2	Effective date
272	1	61-12-1001
	2	61-12-1002
	3	61-12-1003
	4	61-12-1004
	5	Codification instruction
	6	Coordination instruction
273	1	46-18-204
	2	Applicability
274	1	2-17-513
	2	2-17-1102
	3	2-17-1103
	4	Repealer
	5	Effective date
275	1	85-1-211
	2	Effective date
276	1	7-6-1602
	2	7-6-1604
277	1	20-1-231
	2	Repealer
	3	Effective date
278	1	76-13-154
	2	Effective date
279	1	39-3-406
	2	Effective date
280	1	35-1-113
	2	35-1-311 (void and replaced by sec. 27, Ch. 280)
	3	35-1-819
	4	35-1-1028
	5	35-1-1029
	6	35-1-1037
	7	35-1-1038
	8	35-2-114
	9	35-2-307
	10	35-2-613
	11	35-2-822
	12	35-2-823
	13	35-2-831
	14	35-2-832
	15	35-3-205
	16	35-4-109
	17	35-5-201
	18	35-8-102
	19	35-8-108
	20	35-8-1007
	21	35-8-1010
	22	35-8-1011
	23	35-10-641
	24	35-12-504
	25	35-12-1301
	26	Notification to tribal governments
	27	Coordination instruction
	28	Effective date
281	1	85-2-316
	2	Effective date
282	1	87-3-303
283	1	85-2-233
284	1	15-70-210
	2	15-70-352
	3	Coordination instruction
285	1	45-5-701
	2	45-5-702
	3	45-5-703
	4	45-5-704
	5	45-5-705
	6	45-5-706
	7	45-5-707
	8	45-5-708
	9	45-5-709
	10	45-5-710
	11	27-1-755
	12	44-4-1502
	13	44-4-1503
	14	44-4-1504
	15	1-1-411
	16	44-5-311
	17	46-18-111
	18	46-18-201
	19	46-18-203
	20	46-18-205
	21	46-18-207
	22	46-18-222
	23	46-18-231

	24	46-18-608
	25	46-23-502
	26	46-23-1011
	27	Sec. 14, Ch. 374, L. 2009
	28	Repealer
	29	Codification instruction
	30	Effective date
286	1	20-1-225
	2	20-25-428
	3	Effective date
287	1	53-6-113
	2	53-6-131
	3	Effective date
288	1	2-15-1744
	2	37-17-104
	3	37-22-102
	4	37-22-201
	5	37-23-102
	6	37-35-102
	7	37-35-103
	8	37-35-201
	9	37-35-202
	10	37-37-102
	11	Repealer
	12	Name change — directions to code commissioner
289	1	80-7-1016
	2	80-7-1017
	3	80-7-1018
	4	80-7-1013
	5	Codification instruction
	6	Effective date
290	1	80-7-1006
	2	80-7-1015
	3	80-7-1019
	4	Codification instruction
291	1	50-1-115
	2	17-7-502
	3	Codification instruction
	4	Coordination instruction
	5	Effective date
	6	Termination
292	1	Sec. 14, Ch. 374, L. 2009
	2	Effective date
293	1	72-7-101
	2	72-7-102
	3	72-7-103
	4	72-7-104
	5	72-7-201
	6	72-7-202
	7	72-7-203
	8	72-7-204
	9	72-7-205
	10	72-7-206
	11	72-7-301
	12	72-7-302
	13	72-7-303
	14	72-7-304
	15	72-7-305
	16	72-7-306
	17	72-7-307
	18	72-7-308
	19	72-7-309
	20	72-7-310
	21	72-7-311
	22	72-7-312
	23	72-7-313
	24	72-7-314
	25	72-7-401
	26	72-7-402
	27	72-7-403
	28	72-7-404
	29	72-7-405
	30	72-7-406
	31	72-7-407
	32	72-7-501
	33	72-7-502
	34	72-7-503
	35	72-7-504
	36	72-7-601
	37	72-7-602
	38	72-7-603
	39	Codification instruction
	40	Repealer
294	1	85-20-1901
	2	85-20-1902
	3	3-7-211
	4	85-2-111
	5	85-2-114
	6	85-2-301
	7	85-2-302
	8	85-2-306
	9	85-2-427
	10	85-2-506
	11	85-5-110
	12	Notification to tribal governments
	13	Codification instruction
	14	Effective date
295	1	7-34-2131
	2	Effective date
	3	Retroactive applicability
296	1	75-11-401
	2	75-11-402
	3	75-11-403
	4	75-11-407
	5	75-11-408
	6	75-11-409
	7	75-11-307
	8	75-11-309
	9	Codification instruction
	10	Saving clause
	11	Severability
	12	Effective date
297	1	70-24-111 70-33-108
	2	Codification instruction
298	1	Time limits
	2	Appropriations
	3	Effective date
299	1	Appropriations for reclamation and development grants
	2	Coordination of fund sources for grants to political subdivisions and local governments
	3	Condition of grants
	4	Other appropriations
	5	Approval of grants — completion of biennial appropriation
	6	Notification to tribal governments
	7	Coordination instruction
	8	Severability
	9	Effective date
300	1	Appropriations from treasure state endowment state special revenue account
	2	Approval of grants — completion of biennial appropriation
	3	Condition of grants — disbursements of funds
	4	Other powers and duties of department
	5	Appropriations from treasure state endowment state special revenue account for emergency grants
	6	Appropriations from treasure state endowment state special revenue account for infrastructure planning grants
	7	Appropriation from treasure state endowment regional water system special revenue account
	8	Approval of funds — completion of appropriation
	9	Conditions — manner of disbursements of funds
	10	Notification to tribal governments
	11	Coordination instruction

	12	Effective date
301	1	15-36-304
	2	Effective date
302	1	13-25-203 (void - sec. 4, Ch. 340)
	2	13-25-205 (void - sec. 4, Ch. 340)
	3	Repealer (void - sec. 4, Ch. 340)
	4	Effective date
	5	Submission to electorate
303	1	37-54-102
	2	37-54-105
	3	37-54-202
	4	37-54-302
	5	37-54-508
	6	37-54-518
304	1	33-23-221
	2	33-23-222
	3	33-23-223
	4	33-23-224
	5	33-23-225
	6	33-23-226
	7	33-18-210
	8	Codification instruction
	9	Applicability
305	1	Sec. 8, Ch. 390, L. 2013
	2	Sec. 9, Ch. 390, L. 2013
	3	Sec. 10, Ch. 390, L. 2013
306	1	35-1-1401
	2	35-1-1402
	3	35-1-1403
	4	35-1-1404
	5	35-1-1405
	6	35-1-1406
	7	35-1-1407
	8	35-1-1408
	9	35-1-1409
	10	35-1-1410
	11	35-1-1411
	12	35-1-1412
	13	Saving clause
	14	Codification instruction
307	1	20-9-406
	2	20-9-407
	3	Effective date
308	1	15-1-206
	2	15-1-216
	3	15-30-2110
	4	15-30-2339
	5	15-30-2341
	6	15-30-2512
	7	15-30-2531
	8	15-30-2604
	9	15-30-2605
	10	15-30-2606
	11	15-30-2607
	12	15-30-2609
	13	15-30-2643
	14	15-30-3003
	15	Coordination instruction
	16	Effective dates
	17	Applicability
	18	Termination
309	1	Asbestos advisory group — members — duties
	2	75-2-505
	3	75-2-502
	4	Codification instruction
	5	Effective date
310	1	2-3-221 (void - sec. 63, Ch. 348)
	2	Effective date
	3	Applicability
311	1	32-5-301
	2	Effective date
312	1	44-4-1202
	2	44-4-1203
	3	44-4-1205
	4	Effective dates
313	1	46-21-110
	2	Effective date
314	1	7-12-2128
	2	7-8-2211
	3	Codification instruction
315	1	39-71-442
	2	39-71-401
	3	Codification instruction
	4	Effective date
	5	Termination
316	1	2-15-1816
	2	Notification to tribal governments
	3	Effective date
317	1	32-3-102
	2	32-3-301
	3	32-3-321
	4	32-3-322
	5	32-3-401
	6	32-3-403
	7	32-3-405
	8	32-3-406
	9	32-3-416
	10	32-3-417
	11	32-3-418
	12	32-3-608
	13	32-3-701
	14	Repealer
318	1	30-10-327
	2	30-10-301
	3	30-10-303
	4	30-10-324
	5	Repealer
	6	Codification instruction
	7	Saving clause
319	1	75-5-702
	2	Effective date
320	1	33-1-115
		39-71-2375
	2	2-4-101
	3	17-1-102
	4	17-2-110
	5	33-1-102
	6	33-2-1902
	7	33-16-303
	8	33-16-1002
	9	33-16-1008
	10	33-16-1021
	11	33-16-1033
	12	33-16-1035
	13	39-71-2312
	14	39-71-2315
	15	39-71-2316
	16	39-71-2323
	17	39-71-2330
	18	39-71-2332
	19	39-71-2351
	20	39-71-2361
	21	39-71-2363
	22	Repealer
	23	Transition
	24	Codification instruction
	25	Effective date — applicability date
321	1	1-1-531
	2	Codification instruction
322	1	18-4-313
	2	23-1-102
	3	Effective date
323	1	20-1-401
	2	20-9-236 (Sec. 9, Ch. 364, L. 2013)
	3	Sec. 12, Ch. 364, L. 2013
	4	Effective date
324	1	53-6-405
	2	53-6-406
	3	53-6-402
	4	Codification instruction
325	1	77-1-130
	2	Sec. 2, Ch. 325, L. 2011
	3	Sec. 3, Ch. 325, L. 2011
	4	Sec. 4, Ch. 325, L. 2011
	5	Sec. 5, Ch. 325, L. 2011
	6	Sec. 6, Ch. 325, L. 2011
	7	Sec. 7, Ch. 325, L. 2011
	8	Effective date
326	1	87-1-218
	2	Saving clause
327	1	23-2-302
	2	23-2-311
	3	Severability
	4	Effective date
328	1	45-5-209
	2	46-6-311
	3	46-9-302
329	1	15-2-201
	2	15-15-101
330	1	39-71-118
	2	Effective date
331	1	44-10-202
332	1	75-5-214
	2	Codification instruction
	3	Effective date
333	1	5-5-223
	2	Effective date
334	1	76-13-201

	2	Effective date
335	1	33-28-101
	2	33-28-102
	3	33-28-104
	4	33-28-105
	5	33-28-108
	6	33-28-109
	7	33-28-201
	8	33-28-206
	9	33-28-207
	10	33-28-301
	11	33-28-302
	12	Saving clause
	13	Severability
	14	Effective date
336	1	15-7-102
	2	15-7-308
	3	Effective date
337	1	16-11-122
	2	16-11-302
	3	16-11-303
	4	16-11-304
	5	16-11-305
	6	16-11-306
	7	16-11-308
	8	16-11-309
	9	16-11-310
	10	45-5-637
	11	Effective date
338	1	15-1-201
	2	15-1-218
	3	17-4-105
	4	Effective date
339	1	75-2-220
	2	75-2-221
	3	75-2-301
340	1	13-25-203
	2	13-25-205
	3	Repealer
	4	Coordination instruction
	5	Effective date
341	1	2-15-1773
	2	Effective date
	3	Applicability
342	1	33-22-111
	2	33-30-1019
	3	Codification instruction
	4	Effective date
343	1	Commission on sentencing
	2	Duties
	3	Appropriation (line-item vetoed)
	4	Notification to tribal governments
	5	Effective dates
	6	Termination
344	1	90-4-1110
	2	90-4-1111
	3	90-4-1112
	4	90-4-1113
	5	90-4-1114
	6	7-3-1325 7-11-1035
	7	20-9-471
	8	90-4-1101
	9	90-4-1102
	10	90-4-1103
	11	90-4-1109
	12	Repealer
	13	Codification instructions
	14	Applicability
345	1	77-1-145
	2	Codification instruction
	3	Effective date
346	1	33-17-220
	2	33-17-241
347	1	7-14-112
	2	10-2-112
	3	10-2-603
	4	10-3-801
	5	15-1-122
	6	15-35-108
	7	Effective date
348	1	2-6-1001
	2	2-6-1002
	3	2-6-1003
	4	2-6-1006
	5	2-6-1007
	6	2-6-1012
	7	2-6-1013
	8	2-6-1009
	9	2-6-1008
	10	2-6-1014
	11	2-6-1017
	12	2-6-1020
	13	2-6-1101
	14	2-6-1102
	15	2-6-1107
	16	2-6-1108
	17	2-6-1109
	18	2-6-1112
	19	2-6-1113
	20	2-6-1114
	21	2-6-1103
	22	2-6-1201
	23	2-6-1202
	24	2-6-1205
	25	2-6-1501
	26	2-6-1502
	27	2-6-1503
	28	2-15-406
	29	2-3-212
	30	2-3-221
	31	2-3-301
	32	2-15-2017
	33	5-11-203
	34	7-4-2614
	35	7-5-2132
	36	7-5-4124
	37	7-11-1007
	38	13-1-303
	39	13-21-228
	40	15-1-103
	41	15-1-521
	42	15-62-209
	43	17-8-403
	44	18-4-126
	45	19-2-403
	46	19-17-111
	47	22-1-211
	48	30-9A-522
	49	30-14-1603
	50	30-17-101
	51	32-11-107
	52	33-1-1403
	53	33-28-108
	54	46-23-110
	55	53-21-1108
	56	61-6-157
	57	61-11-510
	58	81-2-115
	59	Repealer
	60	Codification instruction
	61	Coordination instruction
	62	Coordination instruction
	63	Coordination instruction
	64	Coordination instruction
	65	Coordination instruction
	66	Coordination instruction
	67	Coordination instruction
	68	Coordination instruction
	69	Coordination instruction
	70	Coordination instruction
	71	Coordination instruction
	72	Severability
349	1	81-1-113
	2	2-15-3110
	3	15-1-122
	4	81-1-110
	5	81-1-112
	6	Codification instruction
	7	Effective date
	8	Termination
350	1	20-7-306
	2	Appropriation
	3	Coordination instruction
	4	Effective date
351	1	20-7-1310(1)
	2	20-7-1310(2)-(4)
	3	Codification instruction
	4	Effective date
352	1	Sec. 7, Ch. 433, L. 2009
	2	Effective date
353	1	Judicial redistricting commission
	2	Appropriation
	3	Effective date
	4	Termination
354	1	41-3-1208
	2	41-3-1209
	3	41-3-1210
	4	41-3-1211
	5	41-3-1212
	6	41-3-1213
	7	41-3-209
	8	41-3-205
	9	41-3-208

	10	Codification instruction
	11	Coordination instruction
	12	Effective date
355	1	19-17-404
	2	Effective date
356	1	7-33-2120
	2	7-33-2401
	3	Effective date
357	1	37-7-1511
	2	Sec. 20, Ch. 241, L. 2011
	3	Effective date
358	1	61-5-232
	2	61-5-105
	3	61-5-212
	4	Codification instruction
	5	Effective date
359	1	5-20-301
	2	20-9-309
	3	Appropriation
	4	Codification instruction
	5	Effective date
360	1	75-10-403
	2	75-10-405
	3	Effective date
	4	Retroactive applicability
361	1	15-7-110
	2	2-15-122
	3	5-2-301
	4	15-1-101
	5	15-2-301
	6	15-6-133
	7	15-6-134
	8	15-6-138
	9	15-6-143
	10	15-6-301
	11	15-6-302
	12	15-6-305
	13	15-6-311
	14	15-7-102
	15	15-7-103
	16	15-7-111
	17	15-7-112
	18	15-7-131
	19	15-7-139
	20	15-7-201
	21	15-8-111
	22	15-10-420
	23	15-15-102
	24	15-15-103
	25	15-16-101
	26	15-16-102
	27	15-24-3202
	28	15-24-3203
	29	15-44-103
	30	77-1-208
	31	Repealer
	32	Codification instruction
	33	Effective date
	34	Retroactive applicability
362	1	16-1-404
	2	16-2-101
	3	Effective dates
363	1	10-1-1002
	2	10-1-1003 (void and replaced by sec. 6, Ch. 363)
	3	10-1-1005
	4	10-1-1007
	5	10-1-1009
	6	Coordination instruction
	7	Effective date
364	1	39-71-117
	2	39-71-118
365	1	39-71-201
	2	39-71-435
	3	39-71-1050
	4	50-71-113
	5	50-71-119
	6	50-72-106
	7	50-73-107
	8	50-71-128
	9	Codification instruction
	10	Transition — contingency provision
	11	Effective dates
366	1	15-6-201
	2	Effective date
	3	Retroactive applicability
367	1	2-17-807
368	1	53-6-1301
	2	53-6-1302
	3	53-6-1303
	4	53-6-1304
	5	53-6-1305
	6	53-6-1306
	7	53-6-1307
	8	53-6-1311
	9	53-6-1312
	10	53-6-1313
	11	53-6-1316
	12	53-6-1317
	13	53-6-1318
	14	39-12-101
	15	39-12-102
	16	39-12-103
	17	39-12-107
	18	15-30-2660
	19	25-3-106
	20	17-7-502
	21	27-2-205
	22	Appropriations
	23	Transition
	24	Codification instruction
	25	Saving clause
	26	Nonseverability
	27	Effective date — contingent effective date
	28	Termination
369	1	33-15-601
	2	33-15-602
	3	33-15-603
	4	33-15-604
	5	33-15-605
	6	33-15-606
	7	33-15-610
	8	33-15-611
	9	61-6-302
	10	Codification instruction
	11	Effective date
	12	Applicability
370	1	33-2-1130
	2	33-2-1131
	3	33-2-1132
	4	33-2-1133
	5	33-2-1134
	6	33-2-1135
	7	33-2-1136
	8	33-2-1137
	9	33-2-1138
	10	33-2-401
	11	33-2-402
	12	33-2-403
	13	33-2-404
	14	33-2-405
	15	33-2-406
	16	33-2-418
	17	33-2-521 (renumbered 33-2-407)
	18	33-2-523 (renumbered 33-2-409)
	19	33-2-525 (renumbered 33-2-411)
	20	33-2-526 (renumbered 33-2-412)
	21	33-2-527 (renumbered 33-2-413)
	22	33-2-537 (renumbered 33-2-417)
	23	33-2-1101
	24	33-2-1104
	25	33-2-1105
	26	33-2-1106
	27	33-2-1111
	28	33-2-1112
	29	33-2-1113
	30	33-2-1115
	31	33-2-1116
	32	33-2-1120
	33	33-2-1216
	34	33-2-1217
	35	33-2-1501
	36	33-11-103
	37	33-20-203
	38	33-20-208
	39	33-31-204
	40	Codification instruction — directions to code commissioner
	41	Saving clause
	42	Severability
	43	Effective date
	44	Retroactive applicability
371	1	Appropriation
	2	Effective date
372	1	15-6-231
	2	15-6-232
	3	15-6-233

	4	15-6-234
	5	15-16-203
	6	Codification instruction
	7	Effective date
	8	Termination
373	1	53-20-126
374	1	15-6-219
	2	33-23-204
	3	61-1-101
	4	61-8-102
	5	61-8-601
	6	61-8-602
	7	61-8-603
	8	61-8-604
	9	61-8-605
	10	61-8-606
	11	61-8-607
	12	61-8-608
	13	61-8-609
	14	61-12-101
375	1	16-4-311
	2	Effective dates
376	1	41-3-305
	2	3-1-702
	3	41-3-301
	4	Appropriation
	5	Codification instruction
	6	Effective date
	7	Termination
377	1	33-2-705
	2	33-2-708
	3	33-27-118
	4	Effective date
	5	Retroactive applicability
378	1	75-5-222
	2	75-5-203
	3	Repealer
	4	Codification instruction
379	1	20-3-106
	2	20-7-101
	3	Effective date
380	1	37-19-203
	2	7-4-2631
	3	50-15-111
	4	Codification instruction
	5	Effective date
	6	Termination
381	1	72-5-321
	2	72-5-324
	3	Effective date
382	1	23-4-101
	2	23-4-301
	3	Saving clause
383	1	85-25-101
	2	85-25-102
	3	17-7-502
	4	Codification instruction
	5	Effective date — contingency
384	1	Inventory of trails and paths — maintenance — report to legislature
	2	Effective date
	3	Termination
385	1	20-26-614
	2	20-26-615
	3	20-26-616
	4	20-26-617
	5	17-7-502
	6	20-26-601
	7	20-26-602
	8	20-26-603
	9	20-26-605
	10	20-26-606
	11	23-7-102
	12	23-7-202
	13	23-7-402
	14	Appropriation
	15	Codification instruction
	16	Effective date
386	1	Task force on state public defender operations — membership
	2	Task force duties
	3	Appropriation
	4	Effective dates
	5	Termination
387	1	15-37-117
	2	75-10-704
	3	75-10-743
	4	Effective date (amended by sec. 10, Ch. 438)
	5	Termination
388	1	15-30-2381
	2	15-31-171
	3	50-51-114
	4	50-51-115
	5	Effective date
	6	Retroactive applicability
389	1	50-63-104
	2	Saving clause
	3	Effective date
	4	Applicability
390	1	5-16-103
	2	Effective date
391	1	1-5-601
	2	1-5-602
	3	1-5-603
	4	1-5-604
	5	1-5-605
	6	1-5-606
	7	1-5-607
	8	1-5-608
	9	1-5-609
	10	1-5-610
	11	1-5-611
	12	1-5-615
	13	1-5-616
	14	1-5-617
	15	1-5-618
	16	1-5-619
	17	1-5-620
	18	1-5-621
	19	1-5-622
	20	1-5-623
	21	1-5-624
	22	1-5-625
	23	1-5-626
	24	1-5-627
	25	1-5-628
	26	Repealer
	27	Notification to tribal governments
	28	Codification instruction
	29	Saving clause
	30	Applicability
392	1	15-30-2380
	2	87-1-294
	3	Sec. 6, Ch. 346, L. 2013
	4	Effective date
	5	Applicability
393	1	69-8-402
	2	69-8-414
	3	Effective date
	4	Applicability
394	1	77-1-804
	2	77-1-820
	3	Codification instruction
	4	Effective date
395	1	61-8-303
	2	61-8-309
	3	61-8-312
	4	61-8-725
	5	61-11-203
396	1	17-6-308
	2	90-6-603
	3	Effective date
397	1	15-30-3302
	2	15-30-3313
	3	Applicability
398	1	61-3-103
	2	61-3-203
	3	61-3-204
	4	61-3-550
	5	61-5-111
	6	Effective dates — applicability
399	1	82-4-301
	2	82-4-303
	3	82-4-305
	4	82-4-375
	5	82-4-376
	6	82-4-377
	7	82-4-378
	8	82-4-379
	9	82-4-380
	10	82-4-381
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	12	82-4-336
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